

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7466

Investigation into Petition Filed by Vermont Department )  
of Public Service Re: Energy Efficiency Utility Structure )

Order entered: 8/20/2010

**REPORT AND RECOMMENDATION RE INITIAL OVERALL PERFORMANCE ASSESSMENTS**

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### **I. INTRODUCTION**

The Public Service Board's ("Board") November 24, 2009, Order in Phase 1 of this proceeding ("November 24 Order") determined that Initial Overall Performance Assessments ("Initial OPA") should be conducted for both providers currently providing Energy Efficiency Utility ("EEU") services<sup>1</sup> prior to the award of an initial Order of Appointment.<sup>2</sup> The Board stated that, in the case of Vermont Energy Investment Corporation ("VEIC"), an Initial OPA would indicate whether there is cause to solicit proposals from alternative energy efficiency providers who might provide greater net benefits to Vermont ratepayers relative to the current EEU provider; if an Initial OPA indicated there was such cause, the Board would issue a competitive solicitation. The Board stated that, in the case of the City of Burlington Electric Department ("BED"), an Initial OPA would determine whether there is cause for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.<sup>3</sup>

In this Proposal for Decision, I recommend that the Board conclude that: (1) the Initial OPA for VEIC indicates that there is no cause to solicit proposals from alternative energy efficiency providers at the present time; and (2) the Initial OPA for BED indicates that there is no cause at the present time for the statewide provider of energy efficiency services to also deliver

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1. Vermont Energy Investment Corporation is currently serving as the statewide EEU, known as Efficiency Vermont. The City of Burlington Electric Department currently provides EEU services in its service territory.

2. The November 24 Order did not expressly address whether the Board intended for me to issue a Proposal for Decision at the conclusion of the Initial OPAs or whether the Board would rule on the issues directly. However, the Board subsequently instructed me to issue a Proposal for Decision at the conclusion of the Initial OPAs. *See*, 2/5/10 Order at 1.

3. November 24 Order at 47.

all EEU services in BED's service territory. I further recommend that the Board determine that it will issue Orders of Appointment for both VEIC and BED. Finally, I recommend that the Board direct me, as Hearing Officer, to continue the development of those Orders of Appointment through additional proceedings in this Docket.

## **II. BACKGROUND**

On September 30, 1999, the Board issued an Order in Docket 5980, the Board's investigation into the establishment of a statewide energy efficiency utility, that approved a comprehensive settlement among parties and created Vermont's EEU. As part of this settlement agreement, BED has continued to provide EEU services in its own service territory.

On October 29, 1999, the Board issued a Request for Proposals to solicit responses from entities interested in providing the energy efficiency services in Vermont. The initial contract was awarded to VEIC and the EEU began operation in March of 2000. VEIC's contract was renewed in 2003. On April 27, 2005, the Board issued a second Request for Proposals for the EEU services to begin in 2006. VEIC was again awarded the contract; it was renewed for an additional three years in 2009.

Initially, the EEU was responsible for providing statewide electric efficiency strategies and measures to Vermont's electric ratepayers. Over the last 10 years, the EEU program has grown in both size and complexity. For example, the EEU program now also includes geographic targeting activities,<sup>4</sup> participation in the regional Forward Capacity Market ("FCM"),<sup>5</sup> the delivery of heating-and-process-fuels efficiency services,<sup>6</sup> and long-range

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4. "Geographic targeting" refers to the targeting of a portion of the EEU's services to maximize energy and capacity reductions in selected geographic areas.

5. In an attempt to address concerns regarding regional electric capacity, ISO-New England ("ISO-NE"), with approval from the Federal Energy Regulatory Commission, developed the FCM, which allows demand resources, such as energy efficiency, to be bid into the market on a comparable basis with supply resources such as generation.

6. Pursuant to 30 V.S.A. § 209(d)(7), the EEU is required to use the net revenues from its participation in the ISO-NE FCM "to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers on a whole-buildings basis to help meet the state's building efficiency goals established by 10 V.S.A. § 581." Pursuant to 30 V.S.A. § 209(d)(8), effective January 1, 2010, revenues from Vermont's participation in the Regional Greenhouse Gas Initiative are required to be deposited into the EEU Fund. These funds are also required to be used to help meet the State's building efficiency goals.

forecasting of demand reduction from energy efficiency. This Order is written assuming the reader is familiar with the EEU program. It addresses VEIC's and BED's performance in a variety of areas, but it is beyond the scope of this Order to describe each of their EEU activities in detail. More information about their EEU activities is contained in the Board's contracts with VEIC, various Board Orders related to the EEU, and Efficiency Vermont's and BED's annual reports.<sup>7</sup>

### **III. PROCEDURAL HISTORY**

At the January 5, 2010, status conference at the beginning of Phase 2 of this proceeding, the parties agreed that the Phase 2 issues could be grouped into three separate, but related "tracks" — Phase 2 Issue Resolution,<sup>8</sup> Initial OPAs, and the DPS Benchmarking Study. The schedules of the Initial OPAs and DPS Benchmarking Study tracks were coordinated so that the Benchmarking Report would be completed in time to be considered in the Initial OPAs.

The first step in the Initial OPAs track was to determine the process and evaluation criteria to be used. After soliciting comments from the public, conducting a workshop, and receiving written filings, I issued a Proposal for Decision that made recommendations regarding these matters. On March 9, 2010, the Board issued an Order establishing the process and evaluation criteria for the Initial OPAs.

Electric distribution utilities provided notice to customers in their May bills, if their billing systems could accommodate such notice, of the Initial OPA process and the opportunity for customers to file comments on the EEU's performance. The Board published notice of this opportunity in newspapers in areas served by electric distribution utilities whose billing systems could not accommodate providing notice in customers' bills.

On April 29, 2010, VEIC filed draft information it believes the Board should consider in its Initial OPA.

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7. Links to these documents are posted on the Board's website at: <http://psb.vermont.gov/utilityindustries/eeu/generalinfo> or the Vermont Department of Public Service's ("DPS") website at: [http://publicservice.vermont.gov/energy/ee\\_statesanctionedinformation.html](http://publicservice.vermont.gov/energy/ee_statesanctionedinformation.html)

8. The Phase 2 Issue Resolution track includes, among other items, the development of a draft Order of Appointment and a comprehensive document that describes the structure of the EEU program.

On that same date, the DPS filed a list of so-called "state-sanctioned information," which is information previously developed by the Board or the DPS that may be useful in evaluating an EEU's performance. I am admitting this list into evidence as exh. DPS-4.<sup>9</sup> The "state-sanctioned" information includes: Board orders; contracts between the Board and VEIC; documents related to the appointment of BED to provide EEU services in its service territory; Efficiency Vermont annual reports; BED demand-side management annual reports; DPS annual verifications of Efficiency Vermont's savings claims; the Contract Administrator's recommendations to the Board regarding Efficiency Vermont's annual savings; the Board's annual determinations regarding VEIC's savings; the Board's letters to VEIC regarding performance incentive awards; the DPS's verification of BED's savings claims; independent audits of the energy and capacity savings claims and the cost-effectiveness of the EEU; financial audits of VEIC; audits of the EEU Fund; Board annual reports to the legislature regarding the revenues collected and the expenditures made for EEU programs; and DPS market assessments and other evaluations. Each category of information includes multiple documents that cover multiple years. No party objected to the admission of any of this information into evidence in this proceeding. In order to ensure as complete a record of VEIC's and BED's performance as possible, I hereby admit all of the information identified in exh. DPS-4 into evidence, even though not all of the documents are relied upon in this Proposal for Decision.

On May 3, 2010, the DPS filed its draft Benchmarking Report.

On May 11, 2010, I conducted a workshop to address requests for clarification regarding the draft information parties believe should be considered by the Board in the Initial OPAs, including questions regarding why such information is relevant to the evaluation criteria, and related issues. Notice of the workshop was provided to the public; no members of the public attended.

On May 25, 2010, VEIC filed the final information it believes the Board should consider in its Initial OPA. I am admitting this information into evidence as exh. VEIC-12.

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9. Many of the documents comprising the "state-sanctioned information" listed in exh. DPS-4 may be reviewed in electronic form on-line at the DPS's website listed in footnote 7, above. Some of the older documents are only available in paper form.

On that same date, BED filed the final information it believes the Board should consider in its Initial OPA, and comments on the DPS draft Benchmarking Report. I am admitting this information into evidence as exhs. BED-3 and BED-4, respectively.

Also on May 25, 2010, the DPS filed its final Benchmarking Report (referred to herein as "the Report"). I am admitting this document into evidence as exh. DPS-3.

On June 14, 2010, BED filed responses to the DPS's questions regarding BED's final information to be considered by the Board in its Initial OPA. Attached to BED's responses were two reports, one regarding BED's 2008 Residential Customer Survey and the other regarding BED's 2008 Commercial Customer Survey. I am admitting these three documents into evidence as exhs. BED-5, BED-6 and BED-7, respectively.

Any party wishing to object to the admission of any of exhs. VEIC-12, BED-3, BED-4, BED-5, BED-6, BED-7, and DPS-3 into evidence should do so in its comments on this Proposal for Decision so that the Board may rule on any objections.

On June 17, 2010, the DPS, BED, Central Vermont Public Service Corporation ("CVPS"), and Green Mountain Power Corporation ("GMP") separately filed recommendations regarding the Initial OPAs. These documents are referred to herein as the "DPS Recommendation," the "BED Recommendation," the "CVPS Recommendation," and the "GMP Recommendation," respectively.

On July 1, 2010, the DPS filed reply comments regarding other parties' recommendations ("DPS Reply Comments").

On July 12, 2010, I sent an e-mail message to the parties with some clarifying questions for VEIC regarding Table 1 on page 3 of VEIC's Overall Performance Assessment informational filing (exh. VEIC-12). In that e-mail message, I stated that I wished to include VEIC's responses in the evidentiary record in this proceeding, and that any objections to such admission or comments on VEIC's responses should be filed by July 20, 2010. VEIC filed responses to my questions on July 16, 2010. No party filed any objections to the admission of VEIC's responses. Accordingly, I hereby admit VEIC's responses as exh. VEIC-13.

#### **IV. PARTIES' POSITIONS**

The DPS, BED, CVPS and GMP (the only parties who filed recommendations on the Initial OPAs) all advocate that the Board issue Orders of Appointment to both VEIC and BED.

CVPS further recommends that the Board condition VEIC's appointment on a requirement that it develop and implement appropriate standards of conduct for the shared use of assets and personnel, inter-affiliate and intra-company information transfers, and affiliate transaction and intra-company cost allocation procedures so that the delivery of EEU services is functionally separated from the provision of services to other VEIC customers or in competitive markets.

The DPS recommends that the standards of conduct described by CVPS should be required as part of any Appointment. The DPS further recommends that this requirement should be added to the "Comprehensive Structure Document" that parties are developing in a parallel track in this Docket.

#### **V. PUBLIC COMMENTS**

The Board received nine public comments regarding VEIC's performance and one public comment regarding both VEIC's and BED's performance.

The public comments received by the Board regarding VEIC's performance primarily addressed three areas: (1) the customer service and programmatic services provided by VEIC; (2) the value received from VEIC as Efficiency Vermont, relative to the amount of Energy Efficiency Charge payments; and (3) VEIC's administrative efficiency. Some of the public comments complimented VEIC's customer service and energy efficiency service offerings, while others expressed concern with their adequacy and appropriateness. Several comments opposed the existence of the EEU program because of a lack of perceived benefits from it compared to the cost of the program. Other comments expressed concern that VEIC was administratively inefficient, and that if the EEU program were continued, another contractor should be selected to serve as an EEU.

The only public comment received by the Board regarding BED's performance expressed support for the energy efficiency programs provided by BED.

The comments opposing the existence of the EEU program are beyond the scope of the issues before me in this phase of this proceeding. The Board has already determined that the EEU structure shall be changed to an Order of Appointment model and has tasked me with making recommendations to it regarding various issues related to the implementation of this new structure. Nevertheless, I note that such public comments are useful because they help the Board, the DPS, and any EEUs understand the need for better communication to Vermonters regarding how the benefits of overall ratepayer investment in energy efficiency accrue to all ratepayers.

I address the issues raised by the other public comments in the relevant sections below regarding specific evaluation criteria.

## **VI. EVALUATION CRITERIA**

In the November 24 Order, the Board stated that, in the case of VEIC, an Initial OPA would indicate whether there is cause to solicit proposals from alternative energy efficiency providers who might provide greater net benefits to Vermont ratepayers relative to the current EEU provider. In that same Order, the Board stated that, in the case of BED, an Initial OPA would determine whether there is cause for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.<sup>10</sup>

To help the Board make these overall determinations, the Board identified nine criteria that it would use to evaluate VEIC's and BED's performances as EEUs. The nine evaluation criteria are:<sup>11</sup>

- Performance with respect to acquisition of energy and demand savings, and achieved Total Resource Benefits;
- Performance with respect to broad policy goals;
- Qualitative performance regarding specific policy initiatives;
- Performance regarding administrative functions necessary to carry out duties;
- Administrative efficiency;

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10. November 24 Order at 47.

11. The Board did not attach specific weights to the individual criteria, stating instead that parties could present arguments regarding why they believe various criteria should be weighted in a particular manner. Order of 3/9/10 at 11 (Order Paragraph 5).

- Customer service;
- Organizational qualifications of incumbents;
- Financial stewardship of ratepayer dollars; and
- Performance in relation to other energy efficiency providers.

While the Board will consider an EEU's performance with respect to each of these evaluation criteria, I recommend that the Board's final decision be based on an EEU's overall performance.

With respect to the Board's overall determinations, CVPS asserts that "clear and convincing evidence of systemic performance deficiencies or failures, or other compelling reasons, would be necessary to constitute good cause to seek proposals from alternate entities."<sup>12</sup> According to CVPS, this is because a transition from an incumbent EEU to a new service provider would put at risk sunk consumer investments in the current EEU service delivery capabilities and risk increased costs for other stakeholders, including Vermont's distribution utilities.<sup>13</sup>

CVPS is correct that there are risks associated with a transition from an incumbent EEU to a new energy efficiency provider. For example, after serving as EEUs for 10 years, the incumbent EEUs have developed strong relationships with their partners and customers that have contributed significantly to their acquisition of energy efficiency savings. It would likely take time for a new entity to develop those relationships. In addition, there is a risk that customers could be confused about the changes in personnel and (potentially) services. Furthermore, with a program of this magnitude, any new entity would likely face start-up challenges, which could slow the pace of savings acquisition in the short term. If an incumbent EEU is not performing well, then it may be appropriate to accept such risks. But, if an EEU is performing well, then there is no need to expose Vermont ratepayers to the risks associated with a transition to a new provider.

In this Proposal for Decision, I consider each EEU's performance with respect to each of the evaluation criteria. For VEIC, I make a recommendation regarding whether its performance in that area indicates there is cause to solicit proposals from alternative energy efficiency

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12. CVPS Recommendation at 1.

13. CVPS Recommendation at 1-2.

providers. For BED, I make a recommendation regarding whether its performance in that area indicates there is cause for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory. Given the amount of ratepayer funds at stake, as well as the importance of the EEU in meeting Vermont's energy needs, there should be a high bar, for both entities, regarding their performance on individual criteria. If an EEU did not perform well on a specific criterion, I would recommend that the Board conclude that the EEU's performance in that area would support either soliciting alternative providers or directing the statewide provider to provide energy efficiency services in BED's service territory as well.

After considering an EEU's performance with respect to each individual criterion, I then consider that EEU's overall performance. Poor performance by an EEU in one area does not require me to recommend that there is cause to solicit alternative providers or direct the statewide provider to deliver energy efficiency services in BED's service territory. Rather, I balance an EEU's performance on all the criteria and, if there appears to be cause to solicit alternative providers or direct the statewide provider to deliver energy efficiency services in BED's service territory, I consider the risks associated with transitioning to a new provider. Finally, I make an overall recommendation to the Board regarding whether the Board should issue an Order of Appointment to that incumbent EEU.

## **VII. FINDINGS AND DISCUSSION**

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following findings of fact and conclusions of law to the Board.

### **A. VEIC**

#### **(1) Acquisition of Energy and Demand Savings and Achieved Total Resource Benefits**

##### **Findings**

1. Each contract between the Board and VEIC has included various performance indicators. Under the terms of each contract, a portion of VEIC's compensation is based on its performance as measured by the specified performance indicators. Attachment C of 2000-2002

Board-VEIC Contract; Attachment K of 2003-2005 Board-VEIC Contract; Attachment C of 2006-2008 Board-VEIC Contract.<sup>14</sup>

2. In the 2006-2008 contract between the Board and VEIC, the energy and demand savings and Total Resource Benefits<sup>15</sup> performance indicators were weighted as follows (in terms of the amount of the total possible performance incentive based on the metric).<sup>16</sup>

Performance Indicator	Weight
Annual Electricity Savings (MWh)	30%
Summer Peak Demand Savings (kW)	7%
Winter Peak Demand Savings (kW)	5%
Summer Peak Demand Savings in Geographically Targeted Areas (kW)	10%
Winter Peak Demand Savings in Geographically Targeted Areas (kW)	10%
Total Resource Benefits (\$2006)	24%

Attachment C of Board-VEIC 2006-2008 contract.

3. In the 2006-2008 contract period, VEIC achieved the following results:

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14. All of these contracts and their attachments may be reviewed in electronic form on-line using either of the links provided in footnote 7, above.

15. Total Resource Benefits includes gross electric benefits, fossil fuel savings, and water savings.

16. The weights do not add up to 100 percent because the contract included additional performance indicators not shown in this table.

Performance Indicator	Target Values	Achieved Values	Achievement as % of Target
Annual Electricity Savings (MWh)	262,031	287,442	110%
Summer Peak Demand Savings (kW)	37,702	41,460	110%
Winter Peak Demand Savings (kW)	41,492	44,899	108%
Summer Peak Demand Savings in Geographically Targeted Areas (kW)	7,200	7,101	99%
Winter Peak Demand Savings in Geographically Targeted Areas (kW)	7,740	3,097	40%
Total Resource Benefits (\$2006)	\$225,392,772	\$226,072,214	100%

Exh. BH-2 at 1.

4. In the 2003-2005 contract between the Board and VEIC, the annual electricity savings and Total Resource Benefits performance indicators were weighted most heavily (in terms of the amount of the total possible performance incentive based on the metric). Both indicators had incentive weights of 35 percent. Summer peak demand savings had an incentive weight of 5 percent. During this contract period, VEIC did not have a winter peak demand savings goal or any goals related to geographically targeted areas.<sup>17</sup> Attachment K of Board-VEIC 2003-2005 contract.

5. In the 2003-2005 contract period, VEIC achieved the following results:

Performance Indicator	Target Values	Achieved Values	Achievement as % of Target
Annual Electricity Savings (MWh)	119,490	153,449	128%
Summer Peak Demand Savings (kW)	15,100	22,114	146%
Total Resource Benefits (\$2003)	\$81,658,926	\$113,161,217	139%

Exh. BH-2 at 1.

6. In the 2000-2002 contract between the Board and VEIC, the annual electricity savings and Total Resource Benefits performance indicators were weighted most heavily (in terms of the

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17. The weights do not add up to 100 percent because the contract included additional performance indicators not described in this finding.

amount of the total possible performance incentive based on the metric). Annual electricity savings had an incentive weight of 25 percent. Total Resource Benefits had an incentive weight of 15 percent. During this contract period, VEIC did not have any goals related to summer or winter peak demand savings or geographically targeted areas.<sup>18</sup> Attachment C of Board-VEIC 2000-2002 contract.

7. In the 2000-2002 contract period, VEIC achieved the following results:

Performance Indicator	Target Values	Achieved Values	Achievement as % of Target
Annual Electricity Savings (MWh)	83,776	92,143	110%
Total Resource Benefits (\$2003)	\$36,162,000	\$86,547,977	239%

Exh. BH-2 at 2.

8. In 2007, Vermont became the first state in which annual savings from efficiency measures (1.7 percent) exceeded projected underlying load growth (1.4 percent). Exh. VEIC-12 at 3-4.

### Discussion

The contracts between the Board and VEIC to serve as Efficiency Vermont have included quantitative three-year performance goals for metrics such as annualized incremental MWh savings, summer and winter peak demand savings (both statewide and in geographically targeted areas) and Total Resource Benefits. The weights placed on those performance indicators reflect their perceived importance by the Board to the achievement of the state's energy efficiency goals. In the 2003-2005 contract, annual electricity savings and Total Resource Benefits were the most heavily weighted indicators. In the 2006-2008 contract, considerably more emphasis was placed on demand savings than in the previous contract, in part due to the implementation of geographic targeting activities. It is appropriate to measure VEIC's performance, in part, by its ability to meet these performance targets.

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18. The weights do not add up to 100 percent because the contract included additional performance indicators not described in this finding.

As shown in the above findings, VEIC met or surpassed its annual electricity savings, Total Resource Benefits, and statewide summer and winter demand savings performance goals. This performance is excellent since it provided significant energy savings and Total Resource Benefits to Vermont for a cost that was at or below that determined to be reasonable during contract negotiations.

However, VEIC did not meet its summer and winter peak demand goals in geographically targeted areas during the 2006-2008 contract period. As the DPS pointed out in its recommendation, geographic targeting was a new initiative during this time period, and relatively unprecedented for energy efficiency providers, especially in Vermont. Even though VEIC did not meet its performance goals, it did reduce electricity demand in the designated geographic areas beyond that which would likely have been achieved if VEIC had operated only statewide programs.<sup>19</sup> The DPS states that, based on VEIC's experience implementing geographic targeting, along with more recent experience with other initiatives that are focused on demand savings such as participation in the regional Forward Capacity Market and integrated transmission planning processes, it is persuaded that VEIC has the ability to successfully offer services that meet future demand goals.<sup>20</sup>

Given the DPS's long-standing EEU evaluation responsibilities, I place considerable weight on the DPS's opinions regarding VEIC's energy and capacity savings performance. The DPS concludes that VEIC's performance relative to its contract goals has been excellent, especially with respect to energy and Total Resource Benefits savings. The DPS asserts that the few missed targets in the past have not been associated with continuing performance failings; instead, in each area where a performance goal was missed VEIC rectified the problems and improved services.<sup>21</sup> Therefore, I recommend that the Board conclude that VEIC's performance relative to its contractual electricity, demand and Total Resource Benefits goals does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

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19. Efficiency Vermont 2008 Annual Report at iv-v; exh. VEIC-12 at 9.

20. DPS Recommendation at 3.

21. DPS Recommendation at 4.

## **(2) Performance With Respect to Broad Policy Goals**

### **Findings**

9. The number of participants in Efficiency Vermont programs, the MWh savings per participant, and the yield (MWh per \$10,000 invested) have increased over each three-year contract period (2000-2002, 2003-2005, and 2006-2008). While net societal benefits<sup>22</sup> per dollar of Efficiency Vermont costs declined during the 2003-2005 contract period, in the 2006-2008 contract period they were higher than in the 2000-2002 contract period. Exh. VEIC-12 at 3.

10. VEIC has met or exceeded 35 out of 40 performance indicators in the time it has served as Efficiency Vermont. Hamilton pf. at 30.

11. VEIC did not meet its business new construction performance indicator in the 2003-2005 contract. Letter from James Volz, Chairman, Board, to Beth Sachs, Executive Director, VEIC, dated June 28, 2006, Re: 2003-2005 Earned Performance Incentive.

12. The 2003-2005 and 2006-2008 contracts between the Board and VEIC contained minimum performance standards, in addition to performance indicators. Most of the minimum performance standards addressed equity considerations such as low-income spending, participation by small non-residential customers and, in the 2006-2008 contract, spending on residential customers and geographic equity.<sup>23</sup> Under the terms of the contracts, if VEIC did not meet a minimum performance standard, the maximum performance award that it could have earned for the contract period would have been reduced. Attachment K of Board-VEIC 2003-2005 contract at K-2 through K-3; Attachment C of Board-VEIC 2006-2008 contract at C-12 through C-13.

13. VEIC's performance with respect to equity considerations has been as follows:

- VEIC balanced savings between residential and commercial customers.
- VEIC met low-income participation goals.

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22. Net societal benefits equal the net present value of benefits minus the sum of: total Efficiency Vermont costs; net participant and trade ally incentives; and net 10 percent risk adjustment. Exh. VEIC-13 at 1.

23. Geographic equity refers to the concept that a specific geographic area would receive energy efficiency services and benefits that were in proportion to its Energy Efficiency Charge collections. Geographic equity is not the same as geographic targeting. All areas of Vermont are considered in geographic-equity requirements while only some portions of Vermont are included in areas designated for geographic targeting.

- VEIC met its contractual geographic-equity requirement in the 2006-2008 contract period. It did not meet its contractual geographic-equity requirement in the 2003-2005 contract period. VEIC did not have a contractual geographic-equity requirement in the 2000-2002 contract period.

Exh. VEIC-12 at 4; letter from James Volz, Chairman, Board, to Scott Johnstone, Executive Director, VEIC, dated July 10, 2009, Re: 2006-2008 Earned Performance Incentive; letter from James Volz, Chairman, Board, to Beth Sachs, Executive Director, VEIC, dated June 28, 2006, Re: 2003-2005 Earned Performance Incentive; Attachment C of Board-VEIC 2000-2002 contract.

14. Vermont has the highest level of penetration of compact fluorescent lamps ("CFLs") in the nation. A 2007 national survey found Vermont to have 8 CFLs per household with the next-highest-performing state having 4.9 per household. Exh. VEIC-12 at 6.

15. Vermont leads the nation in market share for ENERGY STAR homes and appliances. Exh. VEIC-12 at 6.

16. To address the policy goal of comprehensiveness in the residential sector, VEIC has put in place services such as Vermont ENERGY STAR homes (for new construction) and Home Performance with ENERGY STAR (for existing homes). Both these services promote whole-building all-fuels energy efficiency. In 2009, 37 percent of residential new construction in Vermont participated in Vermont ENERGY STAR homes, compared to a national average of 22 percent. Exh. VEIC-12 at 5.

17. To address the policy goal of comprehensiveness in the business sector, VEIC has offered new construction services and key account management. Both these services address electric and non-electric end uses, even though VEIC has had limited resources to address non-electric savings opportunities in the business sector. Exh. VEIC-12 at 6.

18. To support and increase the network of private-sector energy service and product providers, VEIC has: provided training and education to build efficiency-related skills and knowledge; provided software, design guides, manuals, and other technical resources; promoted consumer products and services offered by private-sector providers; formed a partnership with lighting-design professionals to encourage property owners to make use of their services; and

provided financial incentives to many trade allies to overcome market barriers. Exh. VEIC-12 at 7.

### Discussion

There are many broad policy goals expressed in the Board's contracts with VEIC and various Board Orders. Some of these goals relate to customer equity considerations. Others include market transformation,<sup>24</sup> net societal benefits, comprehensiveness of efficiency investment, and working with and through Vermont private-sector energy efficiency service and product providers.

The customer-equity goals have been incorporated into specific contractual requirements that include balancing spending between residential and business customers, low-income participation goals, and geographic-equity goals. VEIC has successfully met all these requirements, except for the geographic-equity performance indicator in the 2003-2005 contract. This goal was designed to ensure that each geographic area would receive energy efficiency services and benefits in proportion to its Energy Efficiency Charge collections. The concept behind this indicator was maintained in the 2006-2008 contract (although it was changed to a minimum performance standard instead of a performance indicator). During that cycle, VEIC met the target.

There have also been specific contractual performance indicators related to market transformation activities. Once again, VEIC has met all these indicators, except one — a business new construction goal in the 2003-2005 contract. Over the three-year contract period, annual enrollment targets were set at 9 percent, 10 percent, and 11 percent of the total number of new construction projects.<sup>25</sup> While VEIC did not meet this indicator,<sup>26</sup> since then VEIC has offered both customized services and streamlined approaches to encourage and support energy-

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24. "Market transformation, the process whereby technologies and innovations evolve within the market to reach their full potential, involves changing behavior of market participants (consumers, manufacturers, vendors, designers, etc.) with the ultimate goal of impacting their decisions affecting energy efficiency." DPS Recommendation at 6, citing Geller and Nadel, ACEEE "Market Transformation Strategies to Promote End-Use Efficiency" 1994.

25. Table K-2 of Board-VEIC 2003-2005 Contract.

26. See, finding 11, above.

efficiency design in commercial new construction projects, even without a specific performance indicator.<sup>27</sup> The DPS notes that, in 2008, 36 percent of business new construction projects participated in an Efficiency Vermont project (180 of approximately 500 projects).<sup>28</sup>

Another way to measure market transformation is by penetration levels of efficient products. National studies that compare such penetration levels among states have shown that Vermont leads the nation in market share for ENERGY STAR homes and appliances, and penetration level of CFLs.

VEIC has acquired increasing amounts of net societal benefits in each contract cycle.<sup>29</sup> Given the increases in Efficiency Vermont's budget that occurred over the last 10 years, such a result is to be expected. However, VEIC achieved more net societal benefits per dollar of Efficiency Vermont costs in the 2006-2008 contract period than it did in the 2000-2002 contract period. This is particularly noteworthy since Efficiency Vermont's costs were more than twice as great in the latter contract period.<sup>30</sup>

The evidentiary record in this proceeding demonstrates that VEIC has effectively implemented services designed to promote comprehensiveness of efficiency investment.<sup>31</sup> As the DPS notes, despite the fact that until recently, funding was only available for electric measures, VEIC followed guidance appropriately to provide services that inform customers of measures that treat the entire building (even if it could not provide incentives).<sup>32</sup>

VEIC has also demonstrated its commitment to the policy goal of working with and through Vermont providers of efficiency-related products and services. VEIC has provided training, software, design guides and other technical resources to such Vermont providers. In addition, VEIC has worked in partnership with trade allies and design professionals to overcome

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27. Exh. VEIC-12 at 6.

28. DPS Recommendation at 4.

29. Exh. VEIC-12 at 3.

30. Exh. VEIC-12 at 3.

31. *See*, findings 16-17, above.

32. DPS Recommendation at 7.

specific infrastructure market barriers. The DPS notes that VEIC also subcontracts with many Vermont-based design and building-contractor professionals.<sup>33</sup>

Unfortunately, until recently, these subcontracts included a "Non-Compete" clause. The DPS notes that VEIC has agreed not to include the clause in any future subcontracts and has stated it will not seek to enforce the clause on past subcontractors who may wish to compete with VEIC in some capacity in the future. The DPS states that while it is concerned about the effect that this clause may have had in the past, the DPS "feels it is unlikely that this clause has had or will have significant effect for EEU services as a comprehensive package delivered to the state by a single entity."<sup>34</sup> Therefore, at this time, the DPS does not find the subcontractor agreement issue a compelling reason to solicit bids from other entities for the purpose of issuing an Order of Appointment. However, the DPS recommends that, if the Board finds other practices that could stifle competition for services in the future (or could have done so in the past), then the Board should re-assess VEIC's performance.

I recommend that the Board conclude that VEIC's performance with respect to broad policy goals does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

### **(3) Qualitative Performance Regarding Specific Policy Initiatives**

#### **Findings**

19. VEIC's implementation of geographic targeting activities from July 2007 through December 2008 resulted in significant capacity savings above what would likely have otherwise happened if VEIC had operated only statewide programs. Exh. VEIC-12 at 9.

20. Sales of specific measures also saw marked increases as a result of VEIC's implementation of geographic-targeting activities. For example, the average per-store growth in efficient lighting retail sales during July 2007 through December 2008 was approximately 140 percent higher in the geographically targeted areas than in other areas. Exh. VEIC-12 at 10.

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33. DPS Recommendation at 8.

34. DPS Recommendation at 8.

21. VEIC began submitting claims for capacity savings in ISO New England's Other Demand Resources sector in the regional Forward Capacity Market ("FCM") in December 2006. As of February 2010, this participation has generated \$2,373,589 in net revenues. Exh. VEIC-12 at 10.

22. VEIC's participation in the FCM required it to take certain organizational risks, including posting financial assurance that will be used to pay financial penalties if VEIC fails to deliver installed energy efficiency capacity at the beginning of each FCM-designated commitment period. An additional organizational risk for VEIC is that its commitments to deliver energy efficiency resources extend beyond the conclusion of its contract period with the Board. Exh. VEIC-12 at 10.

23. VEIC is the third largest Vermont Forward Capacity Market resource, trailing only Vermont Yankee and the McNeil generation stations. Exh. VEIC-12 at 10.

24. In response to the 2008 price spike with oil heat, VEIC worked closely with the DPS and other administration officials to develop a "rapid response" strategy that could help Vermonters reduce their heating costs. One aspect of this strategy was the creation of a Home Heating web page. This web page quickly became one of the most popular sections of the Efficiency Vermont website, accounting for more than 16,000 page views (or about 10 percent of all traffic) from August 1 to December 31, 2008. Exh. VEIC-12 at 11.

25. Over the last year, VEIC has planned and ramped up its heating-and-process-fuels services. These services were designed to complement and build upon existing services where possible. Exh. VEIC-12 at 11.

26. VEIC is a non-voting member of the Vermont System Planning Committee ("VSPC")<sup>35</sup> and a participant in the VSPC's Energy Efficiency & Forecasting Subcommittee. Exh. VEIC-12 at 12.

27. In 2009, VEIC completed the first long-range forecast of demand reduction from energy, known as "Forecast 20." This forecast met the technical standards of the VSPC and its Energy

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35. The VSPC and its associated planning process were created in Docket 7081 (the Board's investigation into least-cost integrated resource planning for Vermont Electric Power Company, Inc.'s transmission system) to facilitate consideration of cost-effective non-transmission alternatives to new transmission projects. The VSPC provides for increased collaboration among utilities and transparency of the planning process.

Efficiency & Forecasting Subcommittee. Forecast 20 will serve as a foundation (in terms of both data and systems) upon which future forecasts can be made. Exh. VEIC-12 at 11.

28. Forecast 20 required more time and resources than VEIC had initially anticipated. In 2008, VEIC received Board authorization for increased funding for Forecast 20, and VEIC is currently seeking an additional adjustment to reflect the total project cost. The delivery date of the forecast was substantially delayed. Exh. VEIC-12 at 11.

29. VEIC has implemented marketing and education activities with the goals of increasing general awareness and understanding of energy efficiency, creating consumer demand, and supporting market transformation. VEIC relies heavily on customer-focused energy efficiency stories, case studies, and testimonials in the media. Customer outreach and marketing are also undertaken through: targeted advertising; informational booths and displays at community events; and communications efforts such as speaking at public events, participating in call-in radio and television shows, providing information columns, maintaining the Efficiency Vermont website, and developing newsletters and other publications. Exh. VEIC-12 at 12.

30. VEIC has demonstrated its commitment to exploring new and emerging technologies. For example, it has developed a comprehensive ground-source-heat-pump information brochure and an online analysis tool to provide an independent guide for homeowners interested in this technology. VEIC is currently placing more emphasis on specialty CFLs (such as dimmable, 3-way, and decorative lamps), rather than standard CFLs, and was one of the first energy efficiency implementers in the nation to offer incentives for light-emitting-diode ("LED") lighting in the home. In addition, as part of the Smart Grid Investment Grant from the U.S. Department of Energy, VEIC is collaborating with distribution utilities on customer-focused Smart Grid research to explore the customer value proposition of the Smart Grid, options for customer in-home display, integration with Efficiency Vermont customer support, and other ways to use Smart Grid technology to achieve efficiency benefits. Exh. VEIC-12 at 13-14.

31. VEIC provides technical input to the DPS in its planning and review of market assessment and evaluation studies. Exh. VEIC-12 at 14.

32. VEIC has participated in informal and formal Board proceedings at the request of the Board since 2000. Exh. VEIC-12 at 14.

### Discussion

Throughout VEIC's tenure as Efficiency Vermont, it has provided marketing and education services, investigated and deployed new cost-effective technologies, provided monitoring and evaluation support to the DPS, and participated in various Board proceedings. In addition, in recent years, VEIC has been asked to respond to a number of specific policy initiatives such as geographic targeting, participation in the FCM, provision of heating-and-process-fuels services, and long-range forecasting of demand reduction from energy efficiency. VEIC implemented new services to respond to each of these policy initiatives:

- While the DPS has not yet conducted its evaluation of VEIC's geographic targeting activities, it is clear that the activities achieved significant savings above that which would have otherwise happened with just VEIC's statewide programs.
- VEIC successfully participated in the FCM, thereby generating over \$2.3 million in net revenues as of February 2010. VEIC achieved this despite challenges associated with making commitments to provide services beyond the lifetime of its contract with the Board.
- VEIC implemented some heating-and-process-fuels efficiency services in time for the 2008-2009 heating season; however, these services were limited by available funds. Roll-out of additional services began in 2010.
- VEIC developed Forecast 20, although it took significantly longer than anticipated and was significantly over budget.

The DPS recognizes the quality of the services provided by VEIC in response to these new policy initiatives, although it expresses concerns regarding the length of time it took VEIC to fully implement its geographic-targeting activities, and cost overruns and delays in the completion of Forecast 20. The DPS suggests that VEIC's "experience from implementing geographic-targeting programs will decrease the amount of time it takes to roll out such initiatives in the future."<sup>36</sup> The DPS states that the final Forecast 20 product and the unique ongoing collaboration between efficiency providers and transmission planners are of great value to Vermont. According to the DPS, "VEIC is keenly aware that the budget overrun and delay in

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36. DPS Recommendation at 9.

reaching fruition on this project were unacceptable."<sup>37</sup> The DPS states that it is unaware of any such similar instances in VEIC's performance.<sup>38</sup>

I recommend that the Board conclude that, overall, VEIC has performed well with respect to specific policy initiatives. The quality of the services provided by VEIC has been high, and the cost overruns and delays associated with Forecast 20 appear to be an isolated situation. Therefore, I recommend that the Board determine that VEIC's performance regarding specific policy initiatives does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

#### **(4) Performance Regarding Administrative Functions Necessary to Carry Out Duties**

##### **Findings**

33. VEIC has developed and maintains sophisticated information technology ("IT") systems to support Efficiency Vermont. These IT systems: track the entire life cycle of customer projects, including savings attributable to each project; link energy usage data to every customer; implement cost-effectiveness screening tools pursuant to Board policies; support monthly, quarterly, and annual reporting requirements; and support the internal business needs of VEIC in its execution of the Efficiency Vermont contract. Exh. VEIC-12 at 16.

34. VEIC maintains, on behalf of Efficiency Vermont, an energy efficiency program database with records on more than 41,000 projects, 4.4 million installed measures, and 355,000 active Vermont electric premises. All of this information is maintained under a confidentiality policy established by the Board. There is no known instance in which this policy has been violated. Exh. VEIC-12 at 16-17.

35. VEIC has consistently received clean financial audits, including A-133 audits demonstrating compliance with federal standards for financial management. The most recent A-133 audit (for calendar year 2008) reported that VEIC had no violations of internal control,

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37. DPS Recommendation at 11.

38. DPS Recommendation at 11.

contract compliance, or financial management requirements. Exh. VEIC-12 at 16; 2008 VEIC Audit.

36. VEIC follows annual planning and budgeting cycles in order to develop Efficiency Vermont's annual plans. Exh. VEIC-12 at 15-16.

37. On a percentage basis, adjustments to MWh savings made by the DPS in the 2006, 2007 and 2008 savings verification processes were significantly lower than adjustments to MWh savings made by the DPS in the 2004 and 2005 savings verification processes. Errata Memorandum Re DPS 2004 Annual Verification Report at 1; DPS 2005 Annual Verification Report at 1; DPS 2006 Annual Verification Report at 2; DPS 2007 Annual Verification Report at 1; DPS 2008 Annual Verification Report at 2.

### Discussion

VEIC's data systems are widely recognized as state-of-the-art. As the DPS notes, more than one contractor hired by the DPS to conduct market assessments and other evaluation activities has favorably commented on the fact that detailed quality data outputs are easily available from VEIC's systems. In addition, according to the DPS, the difficulty in acquiring data in other jurisdictions to compare with the detailed information from Vermont's EEU's was often a limitation of the DPS's Benchmarking Study (exh. DPS-3). Furthermore, the DPS has recommended to the Northeast Energy Efficiency Partnership that Vermont's reporting (and data systems behind that reporting) serve as an example of the kind of information that should be provided throughout the region to ensure transparency and accountability.<sup>39</sup>

VEIC has also demonstrated its financial management, budgeting and planning capabilities during the time it has served as Efficiency Vermont. In addition, according to the DPS, adjustments to MWh savings made by the DPS in the savings-verification process have

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39. DPS Recommendation at 12.

decreased over the last five years, in part due to VEIC's participation in the Technical Advisory Group<sup>40</sup> process as well as improvement in VEIC's documentation of savings assumptions.<sup>41</sup>

I recommend that the Board conclude that VEIC's performance regarding administrative functions necessary to carry out its duties does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

### **(5) Administrative Efficiency**

#### **Findings**

38. It is difficult to make a direct comparison of one organization's administrative costs for energy efficiency service delivery to another organization's due to differences in how administrative costs may be categorized and reported. Exh. DPS-3 at 14, 97.

39. Each of the Board's contracts with VEIC to serve as Efficiency Vermont include a limitation on recovery of general administrative costs. The 2000-2002 and 2003-2005 contracts define general administrative costs as including the following tasks: general project management; budgeting and financial management; and management of the requirements of this Agreement (i.e., "contract management"). The 2006-2008 and 2009-2011 contracts define general administrative costs as including the following tasks: budgeting and financial management; contract management; data collection and reporting; and support for resource planning and program evaluation activities. Attachment B of Board-VEIC 2000-2002 Contract at B-2; Attachment J of Board-VEIC 2003-2005 Contract at J-2; Attachment B of Board-VEIC 2006-2008 Contract at B-3; Attachment M of Board-VEIC 2009-2011 Contract at M-4.

40. Each of the Board's contracts with VEIC to serve as Efficiency Vermont include a limitation on recovery of IT costs. Attachment B of Board-VEIC 2000-2002 Contract at B-3; Attachment J of Board-VEIC 2003-2005 Contract at J-3; Attachment B of Board-VEIC 2006-2008 Contract at B-3; Attachment M of Board-VEIC 2009-2011 Contract at M-4.

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40. The Technical Advisory Group includes members of VEIC, BED and the DPS and focuses on reviewing and approving the methodology and associated assumptions underlying measure-savings calculations.

41. DPS Recommendation at 12.

41. If the limitations on recovery of general administrative and IT expenditures in each contract are combined as a cap on administrative expenses, VEIC has underspent this cap in each of the past three performance periods. Attachment B of Board-VEIC 2000-2002 Contract at B-2; Attachment J of Board-VEIC 2003-2005 Contract at J-2; Attachment B of Board-VEIC 2006-2008 Contract at B-3; Efficiency Vermont 2002 Annual Report at 23; Efficiency Vermont 2005 Annual Report at 19; Efficiency Vermont 2008 Annual Report at 27.<sup>42</sup>

42. Within Efficiency Vermont, the average weighted span of control is now 7.36 staff per manager.<sup>43</sup> This represents a 44 percent increase since 2005. Exh. VEIC-12 at 20.

43. Two external parties have recently reviewed VEIC's staff compensation and billing rates. GDS Associates found VEIC's rates to be "very attractive" in its April 20, 2009, report to the DPS. The "Tiger Team" report produced by the Vermont Agency of Administration found VEIC salaries to be: (1) comparable to those of municipal utility staff and the state Weatherization program; (2) higher, in some cases, than state salaries (although the higher cost and value of state employee benefits do not appear to have been accounted for); and (3) "significantly lower" than those of for-profit electric utilities. Exh. VEIC-12 at 20-21.

### Discussion

Over the last several years, the issue of how to measure an EEU's administrative efficiency has been discussed in a variety of forums. No clear answer has emerged.

One option for measuring an EEU's administrative efficiency is to compare an EEU's administrative costs with those of other energy efficiency providers. However, it is difficult to compare different organizations' administrative costs because, as the Benchmarking Report found, there are significant differences in how administrative costs are categorized and reported. For this reason, the DPS asserts it is not appropriate to compare administrative costs across jurisdictions.<sup>44</sup> I concur with this assessment, and do not attempt to make such a comparison in this Proposal for Decision.

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42. These annual reports are available electronically for review using the link to the DPS's website listed in footnote 7, above.

43. Span of control refers to the number of subordinates a supervisor has.

44. DPS Recommendation at 13.

Another option that some parties suggested be used to measure administrative efficiency is total cost per unit of savings. Both VEIC and the DPS have expressed concerns with using this metric for this purpose.<sup>45</sup>

VEIC explains that a low cost per unit savings could be achieved by "skimming" (or acquiring only the most cost-effective savings rather than treating customers comprehensively and acquiring all cost-effective savings).<sup>46</sup> According to VEIC, total cost per unit of savings would seem useful only to the extent that comparisons were limited to programs of similar comprehensiveness and depth.<sup>47</sup> Since Vermont has been a nationwide leader in energy efficiency implementation for many years, it could be challenging to find programs of similar comprehensiveness and depth that have been in existence as long as Efficiency Vermont. The DPS asserts that while total cost per unit of savings is valuable, it is less a measure of administrative efficiency and more a measure of total program performance.<sup>48</sup>

I agree with both parties that total cost per unit of savings is not a useful metric to use to measure administrative efficiency. Therefore, I do not include it in my analysis of VEIC's performance. Nevertheless, I note that total cost per unit of savings is simply another way of measuring an EEU's yield rate; as stated in finding 9, above, VEIC's yield rate has increased during each three-year contract period.

Additional options for measuring an EEU's administrative efficiency include: an EEU's record in meeting contractual performance objectives and adherence to caps on administrative expenses; an EEU's staff compensation and billing rates; and an EEU's management structure or

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45. VEIC expressed its concerns in its comments on my Proposal for Decision regarding the evaluation criteria to be used in the Initial OPAs. The Board stated in its March 9 Order on the evaluation criteria to be used in the Initial OPAs that it would consider VEIC's comments on the use of these metrics at the same time as other parties' comments on weights to be assigned to the evaluation criteria. 3/9/10 Order at 11.

46. VEIC also contends that any measure of benefits related to administrative costs would be best indicated by Total Resource Benefits instead of "savings," or at least savings over time and not just first-year savings. Letter from Blair Hamilton, Policy Director, VEIC, to Susan Hudson, Clerk, Board, dated February 23, 2010, at 2. Since the other metrics I consider with respect to administrative efficiency do not measure benefits, there is no need to resolve this issue in this Order.

47. Letter from Blair Hamilton, Policy Director, VEIC, to Susan Hudson, Clerk, Board, dated February 23, 2010, at 2.

48. DPS Recommendation at 14.

span of control. I recognize there are advantages and drawbacks to using each of these options; nevertheless, I consider VEIC's performance with respect to all of them.

As discussed above, VEIC has demonstrated its ability to meet contractual performance objectives and adhere to caps on administrative expenses.

Several of the public comments have expressed concern with VEIC's administrative efficiency, including aspects such as staffing levels and overhead costs. However, the evidence in this proceeding does not support such concerns. Instead, independent assessments have found VEIC's staff compensation and billing rates to be reasonable, and VEIC has significantly increased its average weighted span of control over the last five years.

The DPS states that, given the direction the state has provided to VEIC, its administrative efficiency appears to be reasonable. Nevertheless, the DPS recommends that parties work to develop a measure of administrative efficiency whereby each organization can compare its current performance to its own past performance.<sup>49</sup>

After considering these options for measuring administrative efficiency, I recommend that the Board conclude that VEIC's performance with respect to administrative efficiency does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

As for determining what an appropriate performance indicator might be to measure administrative efficiency, such an indicator may help address the concerns raised in the public comments regarding VEIC's administrative efficiency. However, I recommend that this issue be addressed in the upcoming Demand Resources Plan proceeding since that proceeding will address all performance indicators for an EEU.

## **(6) Customer Service**

### **Findings**

44. Efficiency Vermont's customers include: state government officials and agencies; residential and commercial energy end users; trade allies (distributors, design professionals,

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49. DPS Recommendation at 14.

Home Performance contractors, and other links in efficiency-market supply chains); and utility peers. Exh. VEIC-12 at 23.

45. VEIC has recently conducted several customer service and satisfaction surveys, with the following results:

- In a 2009 survey of large commercial customers, customers rated Efficiency Vermont in the 84<sup>th</sup> percentile for overall customer satisfaction; the survey also identified strengths and weaknesses in Efficiency Vermont's account-management service, which helped inform the creation of VEIC's new Key Account Management division.
- In a 2008 customer satisfaction survey, 75 percent of survey responders rated Efficiency Vermont customer service better than other call centers in their experience, and 85 percent reported they were likely to call Efficiency Vermont again with energy issues; in a 2009 customer satisfaction survey, these results improved to 82 percent and 91 percent, respectively.
- In a 2009 retail account survey, 76 percent of retailers rated Efficiency Vermont retail staff better than most or all other vendor representatives who call on them, and 89 percent rated Efficiency Vermont's support and service as "good" or "excellent."

Exh. VEIC-12 at 23-24.

46. In 2009, VEIC's customer complaints reporting system tracked 339 complaints, which were resolved in an average of five days. Exh. VEIC-12 at 23.

### Discussion

The results of VEIC's customer service and satisfaction surveys show that it performs well in comparison to other customer-oriented organizations. However, they also indicate areas where improvements can be made. VEIC has used the results of these surveys to improve the service it provides, for example by creating (and later modifying) the account-management service for large commercial customers.<sup>50</sup> The DPS asserts that the Order of Appointment mechanism will provide opportunities to improve customer service.<sup>51</sup>

Some of the public comments received in this proceeding compliment VEIC's customer service and programmatic offerings while others are critical of these services. This feedback is

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50. Exh. VEIC-12 at 23-24.

51. DPS Recommendation at 15.

valuable to the Board, the DPS, and VEIC since it provides information about areas in which VEIC is performing well, and areas where improvement can be made. In addition, some of the comments include specific ideas for programmatic changes. I make no recommendation to the Board regarding these specific ideas. As indicated by the DPS, under the existing and future performance-based model, the Board establishes general policies and performance goals, but allows an EEU to determine the most effective way to achieve those policies and goals.<sup>52</sup>

The DPS notes that as a non-voting member of the VSPC, VEIC's initial attendance record at meetings was sporadic. However, according to the DPS, after concerns were voiced, VEIC remedied the problem and has been an active participant in both full VSPC meetings and appropriate subcommittee meetings.<sup>53</sup>

VEIC has proven its ability to use customer feedback to improve its customer service. In addition, VEIC performs well in comparison to other organizations. The public comments and survey results indicate that, like with all organizations, there are areas where service can be further improved. Nevertheless, I recommend that the Board conclude that VEIC's performance with respect to customer service does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

### **(7) Organizational Qualifications of Incumbent**

#### **Findings**

47. VEIC staff technical qualifications include: 30 certifications, Building Performance Institute; 28 Certified Energy Managers; 18 Certified Home Energy Raters (Residential Energy Services Network ("RESNET")); 12 Business Energy Professionals; 9 Certified Home Energy Field Inspectors or Certified Home Auditors; 8 Professional Engineers; 8 Leadership in Energy and Environmental Design ("LEED") Accredited Professionals (U.S. Green Building Council); 3 lighting certifications by the National Council on Qualifications for Lighting; 2 Certified Quality Assurance Designees (RESNET), 1 Vermont Performance Excellent Examiner certification; 1

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52. DPS Reply Comments at 2.

53. DPS Recommendation at 15.

Project Management Institute ("PMI") Certified Project Manager; and 1 Passive House Consultant. Exh. VEIC-12 at 25.

48. VEIC staff have significant knowledge of Vermont energy efficiency markets, including both upstream (manufacturers' products, local and regional suppliers, and availability of products) and downstream (retailers) markets. Exh. VEIC-12 at 25.

49. VEIC staff participate with 32 Vermont trade associations and industry groups to further their understanding of the specific needs of each business sector. Exh. VEIC-12 at 25.

50. VEIC's planning approach is based in the principles of clearly defining key performance indicators, identifying the customer value propositions, identifying the means to deliver the customer value propositions, and aligning organizational resources to achieve results. Exh. VEIC-12 at 26.

51. VEIC's planning processes are particularly important as they relate to VEIC's participation in the FCM where there are potential financial implications for failure to meet energy savings projections. VEIC submits FCM bids that are consistent with its latest projections for peak demand savings, as developed through its internal planning process. Exh. VEIC-12 at 26.

52. Forecast 20, which was completed in December 2009, was the product of a collaboration of economists, economic analysts, and energy efficiency professionals from both within and outside VEIC. Exh. VEIC-12 at 26.

53. VEIC has been responsible for the creation and launch of the Efficiency Vermont brand. This brand is now recognized by the majority of Vermonters. Exh. VEIC-12 at 26-27.

54. VEIC has staff with specialized training and experience in combined heat and power ("CHP"). VEIC has also been involved with CHP installations, and has conducted an assessment of CHP potential. Exh. VEIC-12 at 27.

### Discussion

VEIC has demonstrated its organizational qualifications to serve as an EEU. It has an in-depth understanding of the Vermont energy efficiency market, as demonstrated by its success at achieving energy efficiency savings in that market. VEIC has robust planning processes that

facilitate the acquisition of energy efficiency savings and its participation in the FCM. VEIC has produced a high-quality long-range energy efficiency forecast (albeit delayed and with cost overruns); this demonstrates to the DPS that VEIC has the forecasting capability necessary to complete updates to Forecast 20 or any other forecasting required under an Order of Appointment.<sup>54</sup> VEIC has successfully developed the trade name "Efficiency Vermont" into a recognizable brand and, according to the DPS, all references to Vermont's successes in delivering energy efficiency services appropriately refer to Efficiency Vermont, not VEIC.<sup>55</sup> VEIC has staff with specialized training and experience in CHP. According to the DPS, VEIC is committed to exploring new technologies that are now, or may become, the best cost-effective investment for customers and ratepayers.<sup>56</sup>

The DPS notes that throughout this time period, VEIC has invested significant resources in staff development and the ability to provide in-house resources to meet the broadening scope and complexity of Vermont's energy efficiency service delivery needs.<sup>57</sup> As a result, VEIC has developed an "infrastructure of intellectual capital."<sup>58</sup> According to the DPS, the relationships VEIC has built as Efficiency Vermont have become central to the organization's ability to maintain a high level of performance.<sup>59</sup>

Therefore, I recommend that the Board conclude that VEIC's organizational qualifications do not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

## **(8) Financial Stewardship of Ratepayer Dollars**

### **Findings**

55. During the 2000-2008 contract cycles, none of VEIC's annual financial audits or the statutorily required triennial audits of the energy and capacity savings claims and cost-

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54. DPS Recommendation at 17.

55. DPS Recommendation at 17.

56. DPS Recommendation at 18.

57. DPS Recommendation at 16.

58. Poor, pf. at 8.

59. DPS Recommendation at 16.

effectiveness of the EEU revealed any major concerns with VEIC's financial position or use of ratepayer funds. Finding 35, above; VEIC 2000-2008 audits; 2002, 2005 and 2008 Independent Audits of Vermont Energy Efficiency Utility's Energy and Capacity Savings.<sup>60</sup>

56. In the 2006-2008 contract cycle, VEIC spent \$62 million in ratepayer funds, while leveraging \$55.6 million in participant investment and another \$1.8 million in third-party funding (grants and other funding), for a total ratio of 0.92. This leveraging represents an increase in participant contributions from the previous two contract cycles. Efficiency Vermont 2008 Annual Report at 28; exh. VEIC-12 at 29.

57. VEIC ties custom project incentive offers to customer cash flow. This optimizes the use of EEC resources by linking the incentive amount to individual customer project financial performance. Exh. VEIC-12 at 29.

58. To help customers overcome first-cost barriers to investment in energy efficiency, VEIC has implemented financing programs. These have included: the use of loan guarantees to provide loans to dairy farmers who would not typically qualify for conventional bank loans; loans to residential customers during the heating-fuel price crisis; and a turn-key product that provides instant approval to participating Lighting Plus customers seeking financing to cover any initial customer costs that are not covered by program incentives. Exh. VEIC-12 at 29-30.

59. Over the past 14 months, VEIC has actively supported the capture of federal Recovery Act funds for the benefit of Vermont ratepayers. This activity has included: working with communities to apply for Energy Efficiency and Conservation Block Grants; designing and implementing an efficient-appliance rebate program; providing assistance to colleges, universities and hospitals currently applying for funding as "public-serving institutions"; and supporting Vermont's Smart Grid Investment Grant process as a partner in the grant application to the U.S. Department of Energy. Exh. VEIC-12 at 30-31.

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60. The VEIC 2000-2004 audits are only available in paper format; all other audit documents are available electronically for view using the link to the DPS's website in footnote 7, above.

## Discussion

Financial stewardship of ratepayer dollars can refer to ensuring that proper accounting procedures are followed so that no organizational cross-subsidization or other misallocation of resources occurs. VEIC's annual audits and the triennial audit of the EEU program's cost-effectiveness have never indicated any concerns regarding VEIC's accounting related to ratepayer funds. The DPS asserts that it is confident that EEC funds have been well managed in this regard.<sup>61</sup>

Financial stewardship of ratepayer dollars can also refer to the extent to which an EEU minimizes ratepayer costs, thereby ensuring that ratepayers are collectively receiving the best return for their investment. VEIC has demonstrated its commitment to structuring customer financial incentives appropriately, developing financing programs to overcome barriers to customer investment, and pursuing non-EEC financial resources.

Based on the positive audit results, the increasing amount of private investment leveraged by VEIC, and its continued efforts to encourage financing and other options for efficiency investment, the DPS concludes that VEIC has been a sound financial steward of ratepayer money.<sup>62</sup>

I recommend that the Board conclude that VEIC's performance with respect to financial stewardship of ratepayer dollars does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

## **(9) Performance in Relation to Other Energy Efficiency Providers**

### Findings

60. Benchmarking energy efficiency programs is challenging because of the diversity of programmatic, regulatory, and reporting systems that are used in varying jurisdictions. Exh. VEIC-12 at 33.

61. While the DPS Benchmarking Report made every effort to collect comparable data, given the inherent variation in organizations' evaluation and reporting practices, the results are

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61. DPS Recommendation at 19.

62. DPS Recommendation at 19.

not a perfect "apples-to-apples" comparison. For example, utilities may report estimated savings at meter, busbar, or generator; some utilities' methods for estimating savings may be more accurate than other utilities'; only some annual energy efficiency reports included savings that were verified; and few distinguish net savings from gross savings. Exh. DPS-3 at 2.

62. The Benchmarking Report compares VEIC's (referred to in the study as Efficiency Vermont) and BED's 2008 electric energy efficiency performance to that of 25 other energy efficiency providers. These other providers include investor-owned utilities, statewide agencies, and municipal utilities, each having run aggressive, large-scale energy efficiency programs for at least seven years. Given the selection of organizations, this group's performance is likely better than the national average. Exh. DPS-3 at 1.

63. The Benchmarking Report includes three levels of review, each with its own group of organizations. The first level includes all 25 other organizations. Levels two and three analyze in increasingly greater detail; by design, each level of analysis narrows the group size. Exh. DPS-3 at 2.

64. The level two analysis in the Benchmarking Report attempts to normalize results by excluding organizations in climates very different from Vermont's and by excluding all costs and impacts associated with demand-response, low-income, and fuel-switching programs. Exh. DPS-3 at 7.

65. The level three analysis in the Benchmarking Report involves a more detailed analysis of a group of level two peer organizations that achieved above-median energy savings at median costs or less. Exh. DPS-3 at 9.

66. The Benchmarking Report shows that VEIC and BED achieved significantly larger energy savings than almost all of the utilities and agencies benchmarked, while their costs were somewhat higher than the median. It is typical for organizations that achieve energy savings in the top 15 percent of a reviewed group to have a cost of savings that is at or a little above the median. Exh. DPS-3 at 7.

67. VEIC's and BED's residential energy efficiency programs had the largest energy savings for any of the organizations benchmarked for all levels of the analysis, while their residential cost

of saved energy were less than the residential medians for the organizations benchmarked for all levels of the analysis. Exh. DPS-3 at 13.

68. Lighting programs account for 94 percent of both VEIC's and BED's total residential energy savings. Lighting programs account for most of the residential energy savings for most of the level three organizations reviewed in the Benchmarking Report. Exh. DPS-3 at 13.

69. VEIC achieved the largest commercial and industrial ("C&I") savings of any of the organizations reviewed in the Benchmarking Report, about 2.1 percent of C&I baseline sales. This amount of savings is about double the medians of the benchmarked utilities for all three levels of analysis. Exh. DPS-3 at 13.

70. VEIC's levelized cost of C&I energy savings is higher than the median levelized cost for the level three investor-owned utilities and state agencies. The main reason for this appears to be that VEIC's geographic-targeting direct-install program results in approximately half of its C&I savings. Direct-installation programs tend to be higher-cost programs than most types of prescriptive-rebate programs; no other level three organization reported obtaining more than 19 percent of its C&I energy savings from a direct-installation program. Exh. DPS-3 at 13.

71. The American Council for an Energy Efficiency Economy ("ACEEE") periodically publishes a report ranking the energy efficiency policies and programs of each state. *The State Efficiency Scorecard of 2006* ranks Vermont first in the nation, along with Connecticut and California, on its progress in energy efficiency. Exh. VEIC-12 at 33; exh. BED-3 at 28-29.

72. ACEEE's *2008 State Energy Efficiency Scorecard* ranks Vermont first in the nation for "utility and public benefits efficiency programs and policies," with a score of 19 out of 20 possible points. The next best-performing state in that category received 15.5 points. Exh. VEIC-12 at 33.

73. ACEEE's *2008 State Energy Efficiency Scorecard* also found that in 2007, the most recent year for which comparative data were available, Vermont's savings as a percent of electricity sales was 1.7 percent, well ahead of the next-best state at 1.3 percent. Exh. VEIC-12 at 33.

74. In 2009, ACEEE published a ranking of energy efficiency programs judged by a panel of nine experts. All nine placed the Efficiency Vermont program as one of the ten best programs in the nation, with a median ranking of fourth. Exh. VEIC-12 at 33.

75. Another ACEEE report published in 2009 (*Saving Energy Cost-Effectively: A National Review of the Cost of Energy Saved Through Utility-Sector Energy Efficiency Programs*) found that Efficiency Vermont's cost to deliver efficiency is identical to the median cost for programs in fourteen surveyed states. Exh. VEIC-12 at 33.

### Discussion

The Benchmarking Report is the first time that Vermont has compared VEIC's (and BED's) performance to that of other energy efficiency providers. The Benchmarking Report itself recognizes that it is difficult to make such comparisons, given the variation in organizations' evaluation and reporting practices. Nevertheless, as noted by the DPS, the Benchmarking Report "is a useful product to gauge the relative standing of efficiency programs across the country."<sup>63</sup>

VEIC's achieved energy savings were higher than almost all of the other organizations included in the benchmarking analysis, and as is to be expected of organizations that achieve high savings levels, its cost of savings was somewhat higher than the median. According to the DPS, the Benchmarking Report "shows that the relative performance of both VEIC (operating as [Efficiency Vermont]) and BED was excellent compared to their peers in 2008."<sup>64</sup>

Other recent reports that compare energy efficiency policies and programs in different states have found that Vermont has achieved a high level of savings (expressed as a percent of electricity sales) at a median cost of savings.

There are a variety of different energy efficiency policies and programs being implemented around the country. Many of these programs are in areas with significantly different market characteristics than Vermont — a small, rural state in a cool climate with comparatively few large commercial and industrial customers. Both the Benchmarking Report

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63. DPS Recommendation at 20.

64. DPS Recommendation at 20.

and other national studies indicate that VEIC's approach to delivering energy efficiency services is working well given our unique characteristics. Therefore, I recommend that the Board conclude that VEIC's performance in relation to its peers does not indicate there is cause to solicit proposals from alternative energy efficiency providers at the present time.

### **(10) Overall Determination**

#### **Findings**

76. There is no cause to solicit proposals from alternative energy efficiency providers who might provide greater net benefits to Vermont ratepayers relative to the current EEU provider at the present time. Findings 1-75, above.

#### **Discussion**

VEIC has served under contract to the Board as Efficiency Vermont since the EEU's inception in 2000. As discussed above, over that time period, VEIC achieved 35 of the 40 performance indicators included in its contracts with the Board. VEIC has also performed well with respect to broad policy goals, specific policy initiatives, administrative functions necessary to carry out its duties as an EEU, administrative efficiency, customer service, and financial stewardship of ratepayer dollars. VEIC clearly possesses the organizational qualifications to serve as an EEU. In addition, while precise comparisons among energy efficiency programs is challenging, the Benchmarking Report indicates that VEIC's 2008 performance was excellent compared to its peers. In other words, none of the individual evaluation criteria indicate that there is cause to solicit proposals from alternative energy efficiency providers at the present time. Because of this, I determine that there is no need to consider how to weight the individual evaluation criteria.<sup>65</sup>

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65. In the Board's March 9, 2010, Order in this proceeding, it provided parties with an opportunity to comment on the weights to be given to the various general evaluation criteria, or specific components of those criteria. The DPS is the only party that commented on this issue, stating that it does not believe it is necessary to put varying weights on the metrics because of VEIC's and BED's success in meeting each of the evaluation criteria. DPS Recommendation at 2.

The DPS asserts that, based on VEIC's performance on each of the evaluation criteria, "there are not likely to be probable net benefits from going to the market to consider offers from alternate implementation entities."<sup>66</sup> Therefore, the DPS recommends that VEIC be appointed the statewide provider of energy efficiency services outside of BED's service territory.<sup>67</sup>

GMP contends that no party to this proceeding has filed any evidence that indicated that "the Board should test the market and seek competitive solicitations from other entities to provide energy efficiency services."<sup>68</sup> Therefore, GMP asserts that it would be reasonable for VEIC to be granted the initial Order of Appointment.<sup>69</sup>

CVPS asserts that the information presented in this proceeding regarding VEIC's performance as an EEU does not present "clear and convincing evidence of systemic performance deficiencies or failures, or other compelling reasons" that would constitute good cause to seek proposals from alternate entities.<sup>70</sup> Therefore, CVPS recommends that the Board find that good cause does not exist to solicit proposals from other entities to replace VEIC as an EEU.<sup>71</sup>

BED asserts that VEIC has performed well during the past decade that it has served as Efficiency Vermont, and that its exceptional performance relative to peer organizations has been confirmed by the Benchmarking Report. Therefore, BED states that "there appears to be no reason to conduct a competitive solicitation at this time, and VEIC should be granted an Order of Appointment as the statewide EEU."<sup>72</sup>

I have considered the evidence presented in this proceeding regarding VEIC's performance, as well as the parties' recommendations. All parties who have filed comments recommend that the Board conclude that there is no cause to solicit proposals from alternative energy efficiency providers at the present time. While this Initial OPA has revealed some areas

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66. DPS Recommendation at 1.

67. DPS Recommendation at 1 and 22. The DPS adds that it initially considered all the evaluation criteria equally, and upon conclusion of its review, it became apparent that the DPS's recommendation in favor of appointing VEIC would not be altered if the criteria were weighted differently. DPS Recommendation at 2.

68. GMP Recommendation at 1.

69. GMP Recommendation at 1.

70. CVPS Recommendation at 1-2.

71. CVPS Recommendation at 1-2.

72. BED Recommendation at 2.

in which VEIC's performance could be improved, this is to be expected in any comprehensive performance evaluation. Overall, I am persuaded that the evidence supports the conclusion advocated by the parties, and recommend that the Board make such a determination.<sup>73</sup> In addition, I recommend that the Board affirmatively state that it will grant an Order of Appointment to VEIC, and remand this Docket to me for further proceedings regarding the specific terms of such an Order of Appointment.

## **B. BED**

### **(1) Acquisition of Energy and Demand Savings and Achieved Total Resource Benefits**

#### **Findings**

77. BED began providing energy efficiency services to its ratepayers in the 1980s. Exh. BED-3 at 1-2.

78. BED's MWh savings results and savings as a percentage of total MWh sales from 1990 through 2009 for all of BED's EEU and non-EEU energy efficiency services are:

Years	Total Sales (MWh)	Total Gross Savings (MWh)	% of Total Sales
1991-1993	971,283	16,496	1.7%
1994-1996	964,338	12,353	1.3%
1997-1999	993,096	7,167	0.7%
2000-2002	1,000,229	10,662	1.1%
2003-2005	1,059,148	11,794	1.1%
2006-2008	1,069,690	23,013	2.2%
2009	344,675	5,470	1.6%

Exh. BED-3 at 8.

79. BED began to use the statewide Total Resource Benefits calculation in 2003. BED's Total Resource Benefits for both EEU and non-EEU programs are:

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73. Since there does not appear to be cause to solicit alternative providers, I do not need to expressly consider the risks associated with transitioning to a new provider.

Year	Total Resource Benefits
2003-2005	\$7,842,158
2006-2008	\$21,043,248
2009	\$5,994,161

Exh. BED-3 at 9.

80. Since the Board granted BED permission to deliver EEU services within its service territory, BED has developed three, three-year performance period budgets, savings targets and performance indicators. Exh. BED-3 at 10.

81. BED's savings results from the EEU services it provided during each EEU performance period, compared to its goals, are:

	2000-2002	2003-2005	2006-2008
MWh Goal	4,098	7,486	11,558
MWh Saved	7,251	11,794	23,391
% of Goal	177%	158%	194%
Winter Peak kW Goal	No performance indicator set	No performance indicator set	3,767
Winter Peak kW Saved	838	1,435	3,239
% of Goal			86%
Summer Peak kW Goal	No performance indicator set	885	3,020
Summer Peak kW Saved	870	1,355	2,647
% of Goal		153%	88%

Exh. BED-3 at 11.

82. Annual electricity consumption in 2009 in Burlington was only 2 percent greater than in 1989, indicating that BED has met the majority of the electric needs of substantial local economic growth over the last 20 years through energy efficiency, at annual savings to Burlington ratepayers of over \$9 million in retail electric costs. Exh. BED-3 at 2-3.

### Discussion

BED has a long history of providing energy efficiency services to its ratepayers, predating the creation of the EEU by more than a decade. These energy efficiency services have produced significant energy savings over the years.

When BED began delivering EEU services, the Board approved performance goals for these services. However, as noted by the DPS, there has been no known regulatory or fiscal downside for BED if these goals are not met. Therefore, according to the DPS, BED might not have had the incentive to divert resources and/or alter strategies to meet the targets; it is difficult to predict how BED might have adjusted its performance if they had had greater incentive to do so. For example, if BED's incentives were aligned as VEIC's were,<sup>74</sup> in the 2006-2008 performance cycle, BED might have reallocated resources to increase investment in winter kW savings to meet that goal, recognizing that would have reduced its MWh savings, but still easily achieving the MWh target. For this reason, the DPS recommends reviewing BED's performance trends rather than its performance relative to its targets in this Initial OPA.<sup>75</sup>

These performance trends are positive. BED has acquired significant energy savings for nearly 20 years, capacity savings that increased materially starting in 2006 when BED received new direction from the Board to focus on summer peak reductions, and significant Total Resource Benefits. Therefore, I recommend that the Board conclude that BED's performance with respect to the acquisition of energy and demand savings and achieved Total Resource Benefits does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

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74. See, finding 1, above.

75. The DPS also recommends that, if BED were reappointed as an EEU, the Board should make BED aware that performance relative to targets will be an evaluation criterion used in future OPAs. I concur, and hereby recommend that the Board do so.

**(2) Performance with Respect to Broad Policy Goals**

**Findings**

83. The number of participants in BED's EEU programs, the MWh savings per participant, and the yield (MWh per \$10,000 invested) have been as follows during the three performance periods:

	2000-2002	2003-2005	2006-2008
Participants	5,285	6,678	12,784
MWh/participant	2.0	1.77	1.80
Yield (MWh/\$10,000 invested)	44	46	65

Exh. BED-3 at 9.

84. In 2002, the DPS hired GDS Associates, Inc. ("GDS") to conduct a third-party independent assessment of BED's core program implementation in an effort to assess BED's administrative functions and coordination with Efficiency Vermont, and to otherwise review BED's performance in meeting the terms of the Board Order authorizing it to provide EEU services in its service territory. Exh. BED-3 at 11-12.

85. GDS's final report included the following overall finding:

Based on a review of the documents previously identified and the interviews conducted with BED, [Efficiency Vermont] and [Vermont Gas Systems, Inc. ("Vermont Gas")] staff, it appears that BED is delivering the Core Program's [sic] in a manner consistent with [Efficiency Vermont]. Moreover, as illustrated in the costs and savings associated with BED's 2000 and 2001 Core Programs, BED does not appear to be experiencing any significant increased administrative burden or reduced program benefit as a result of delivering the programs only within its service territory. On the contrary, the findings indicate that with essentially the same proportion of administrative costs, BED is delivering the Core Programs as intended in DPS' Statewide Energy Efficiency Plan with a high level of coordination with [Vermont Gas].

Exh. BED-3 at 12.

86. Starting in 2000, BED and Efficiency Vermont entered into a detailed coordination agreement, updated annually, that seeks to "maximize the benefits of synergism" to both organizations and ultimately to all Vermont ratepayers. Exh. BED-3 at 12.

87. To BED's knowledge, there have been no customer issues or disagreements between BED and Efficiency Vermont that needed to be resolved by the EEU Contract Administrator or the DPS. Exh. BED-3 at 20.

88. BED addresses low-income housing through a partnership with Vermont's Low-Income Weatherization Program. Through this partnership, electrical efficiency measures are delivered to income-eligible electric customers at the same time they receive thermal shell, space heating and water heating improvements from Champlain Valley Weatherization Service. BED 2008 Energy Efficiency Annual Report at 47.

89. In 2004, the American Council for an Energy Efficiency Economy ("ACEEE") presented BED, Efficiency Vermont and Vermont Gas with a "Certificate of Recognition for Exemplary Natural Gas Efficiency Programs to Multi-Family Low-Income." In 2005, ACEEE recognized the three entities again with a "Certificate of Recognition for Exemplary Low-Income Single Family Service." Exh. BED-3 at 13.

### Discussion

When the Board first authorized BED to provide EEU services in its service territory, it concluded that the anticipated benefits of BED doing so outweighed the risks or potential inefficiencies of such delivery.<sup>76</sup> An important component of this decision was that BED would be implementing EEU services in its service territory so that they would have the same "look and feel" as they did throughout the rest of the state.<sup>77</sup> Another key component of this decision was that BED and Efficiency Vermont would coordinate closely on delivery of EEU services, including by developing a written coordination plan.<sup>78</sup>

The DPS's 2002 assessment of BED's EEU implementation found that BED was delivering EEU services in a manner consistent with Efficiency Vermont without experiencing any significant increased administrative burden or reduced program benefit as a result of delivering the programs only within its service territory. While a formal assessment of BED's

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76. Docket 5980, Order of 9/22/00 at 16.

77. Docket 5980, Order of 9/22/00 at 4 (finding 5).

78. Docket 5980, Order of 9/22/00 at 14 (finding 59).

EEU implementation has not been conducted since then, BED asserts that it is clearly understood today that BED's and Efficiency Vermont's program offerings are identical.<sup>79</sup> To support this assertion, BED notes that no issues have come to BED's or consumer advocates' attention surrounding this program design question in many years.<sup>80</sup>

Because BED has delivered the same services as Efficiency Vermont, many of the assessments of how VEIC has performed with respect to broad policy goals also apply to BED. For example, the DPS notes that both EEUs, including BED, have "worked diligently to upgrade the level of energy efficient technology in Vermont and to transform markets to create a focus on energy efficiency."<sup>81</sup> National studies that show high penetration levels of efficiency products in Vermont, compared to other states, apply to both BED and VEIC.<sup>82</sup> Similarly, according to the DPS, both EEUs, including BED, have implemented initiatives that seek to provide customers with comprehensive energy efficiency services for both residential and commercial buildings, and both entities have encouraged customers to make efficiency investments on a whole-buildings basis.<sup>83</sup>

In addition, while BED's energy efficiency services are designed so that all ratepayers can participate,<sup>84</sup> BED faces some different challenges because of Burlington's unique characteristics within the Vermont context. For example, about 60 percent of BED's residential customers live in rental housing and about 85 percent of residential customers in rental housing pay their space heating and electric bills directly. According to BED, it has been difficult nationwide to persuade rental investment property owners to participate in energy efficiency programs as they often do not perceive a direct value.<sup>85</sup> Despite these challenges, the number of participants in BED's EEU services has increased over the last 10 years.

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79. While public comments are not part of the evidentiary record, I note that the only public comment the Board received regarding BED's performance recognized the joint nature of the programs offered by BED and VEIC.

80. Exh. BED-3 at 20.

81. DPS Recommendation at 6.

82. *See*, findings 14-15, above.

83. DPS Recommendation at 7.

84. Exh. BED-3 at 20.

85. Exh. BED-3 at 6.

BED and Efficiency Vermont have worked closely and coordinated well over the last 10 years. GMP notes that it appears that VEIC and BED have a solid working relationship that GMP expects will continue. This is supported by both the joint awards BED and VEIC have received, as well as the lack of disputes between BED and Efficiency Vermont that have required resolution by the EEU Contract Administrator or the DPS.

I recommend that the Board conclude that BED's performance with respect to broad policy goals does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

### **(3) Qualitative Performance Regarding Specific Policy Initiatives**

#### **Findings**

90. In 2006, the Board directed BED to use a portion of EEC funds to reduce summer peak. In response, BED achieved increased summer peak reductions, compared to earlier years, as follows:

Year	Summer Peak kW Saved	BED System Peak (MW)	Percent of Peak
2000	0.387	63.05	0.61%
2001	0.341	65.47	0.52%
2002	0.52	65.42	0.79%
2003	0.361	64.88	0.56%
2004	0.557	63.59	0.88%
2005	0.63	69.58	0.91%
2006	0.891	71.13	1.25%
2007	1.052	67.94	1.55%
2008	0.889	66.64	1.33%
2009	0.788	63.92	1.23%

Exh. BED-3 at 9-10.

91. BED ran Project Porchlight in cooperation with Efficiency Vermont in the Burlington, Winooski, Colchester and Essex areas as a portion of geographic-targeting efforts focused on

those communities. Project Porchlight involved the free distribution of 25,145 CFLs throughout the region, along with promotional information regarding other residential energy efficiency offerings. Exh. BED-3 at 4.

92. BED has participated in the FCM since the Board approved BED's participation in 2006. BED's participation has helped bring additional revenues for energy efficiency programs into Vermont. Exh. BED-3 at 13.

93. BED's existing relationship with ISO-NE was valuable when Vermont was developing its FCM participation process. Exh. BED-3 at 13.

94. During 2010, BED will work with the DPS and Efficiency Vermont to study the first full round of on-site equipment metering required by the ISO-NE FCM measurement and verification process. The engineering assumptions and the energy savings calculations used by BED and Efficiency Vermont will be reviewed and updated based on findings from this measurement and verification process. Exh. BED-3 at 13-14.

95. BED and Efficiency Vermont established a working partnership in early 2009 so that BED customers have access to the same heating-and-process-fuels services and incentives as customers in the rest of the state. Exh. BED-3 at 14.

96. In early 2009, BED began compensating Vermont Gas for installing CFLs and collecting other electrical energy efficiency opportunity information while performing Vermont Gas audits in Burlington buildings. Exh. BED-3 at 14.

97. BED is very familiar with all-fuels issues given its experience providing administrative and technical assistance for building energy codes and Burlington's Minimum Rental Housing Time of Sale Energy Efficiency Standards Ordinance, which requires the weatherization of eligible rental apartment buildings at the time of sale. Exh. BED-3 at 14.

98. From the early 1990s to date, BED staff have provided home weatherization energy audits to customers not eligible for Low-Income Single Family or Vermont Gas weatherization services. Exh. BED-3 at 14.

99. BED has well-established load research and forecasting capabilities that have been developed since the early 1990s. BED annually prepares a Load Research report that details the highlights of its annual load profile. Exh. BED-3 at 22.

100. While the major impetus for conducting load research at BED was to support cost-of-service and rate-design studies, the data from the research has also supported load forecasting, large account billing, energy efficiency studies, and demand response programs. Exh. BED-3 at 22.

101. Over the past two decades, BED has developed the most comprehensive load research data of any Vermont utility, and has conducted several customer surveys to develop end-use data such as appliance saturations. Exh. BED-5 at 2.

102. BED developed an independent load forecast and an energy efficiency savings forecast as part of its 2008 integrated resource planning process, which were then incorporated into the Vermont Electric Power Company's *2008 Long Term Peak Demand Forecast* and Efficiency Vermont's Forecast 20. Exh. BED-5 at 3.

103. BED actively participates in the VSPC Energy Efficiency & Forecasting Committee. Exh. BED-5 at 3.

104. BED coordinates marketing efforts with Efficiency Vermont to ensure a consistent and seamless message is delivered to all parties. BED's and Efficiency Vermont's annual coordination plan provides that Efficiency Vermont will take the lead on marketing efforts. Exh. BED-3 at 16.

105. BED also markets EEU services through bill messages, quarterly customer newsletters, a "new customer to BED" letter, BED's website, monthly newspaper articles, regular appearances on community-access TV, information in "ability to serve" letters, and through Burlington's permitting process. Exh. BED-3 at 16.

106. BED staff conduct annual visits to Burlington schools to present energy information and encourage students to participate in BED's annual Energy Efficiency Calendar Project. BED staff also are invited yearly to speak in classes at the University of Vermont in the Natural Resources and Environmental Studies programs and at various other campus events. Exh. BED-3 at 16.

107. Since 2000, as part of the annual coordination agreement between BED and Efficiency Vermont, the two entities have worked together on the development, marketing and leverage of new and emerging technologies and the development and marketing of new services and initiatives. Most recently these efforts have included information on ground source heat pump

guidance, utilizing professional lighting designers, working upstream with lighting vendors and continuing to provide guidance on emerging LED technology. Exh. BED-3 at 16-17.

### Discussion

Throughout the time period BED has delivered EEU services, it has coordinated with Efficiency Vermont with regard to: (1) the provision of marketing and education services; and (2) the investigation and deployment of new cost-effective technologies. In addition, in recent years, BED has been asked to respond to a number of specific policy initiatives such as geographic targeting, participation in the FCM, provision of heating-and-process-fuels services, and long-range forecasting of demand reduction from energy efficiency. BED responded to each of these policy initiatives as follows:

- BED increased its focus on reducing its summer peak, achieving significantly larger summer peak savings.
- BED used its existing relationship with ISO-NE to assist in the development of the process by which Vermont energy efficiency providers would participate in the FCM, and successfully participated in that market.
- BED coordinated with Efficiency Vermont so that BED customers have access to the same heating-and-process-fuels services as customers in the rest of the state.
- BED participated in the VSPC Energy Efficiency & Forecasting Subcommittee, and developed an independent load forecast and an energy efficiency savings forecast that was incorporated into Forecast 20.

The DPS asserts that BED has responded to new policy initiatives by offering quality services. For example, since 2006, BED has saved a larger portion of its summer peak load than it had previously. In addition, BED has initiated Demand Response programs (with its non-EEU budget) to similarly address the peak. The DPS recommends that BED continue to address its summer peak aggressively with a combination of EEU and non-EEU funds. However, the DPS recommends that BED "more clearly identify the particular programs and EEU investment that is specifically targeted at its summer peak."<sup>86</sup>

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86. DPS Recommendation at 9.

The DPS acknowledges that BED has more experience with ISO-NE, and that it had fewer obligations during the transition period to the FCM (for example, municipal utilities did not need to provide financial assurances). The DPS notes that BED has worked extensively with the DPS in order to facilitate the measurement and verification process required by ISO-NE for FCM obligations. BED has secured significant revenues on behalf of Vermont as a result of its participation in the FCM. According to the DPS, its participation in this market has served Vermont well.<sup>87</sup>

The DPS suggests that given the limited funding for unregulated-fuels services, and the limited number of unregulated-fuels customers in BED's service territory, close coordination with Efficiency Vermont is appropriate.<sup>88</sup>

Finally, the DPS recognizes BED's experience developing load forecasts that include energy efficiency projections, and asserts that BED's forecasting ability and expertise has been particularly valuable in the context of the VSPC Energy Efficiency & Forecasting Subcommittee.<sup>89</sup>

I recommend that the Board conclude that, overall, BED has performed well with respect to specific policy initiatives. In some areas its status as an electric utility has enabled it to bring special expertise to the energy efficiency activities. In other areas, it has appropriately partnered with Efficiency Vermont to ensure that BED's customers receive the same EEU services that Efficiency Vermont provides to customers in the rest of the state. Therefore, I recommend that the Board determine that BED's performance regarding specific policy initiatives does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

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87. DPS Recommendation at 10.

88. DPS Recommendation at 10.

89. DPS Recommendation at 11.

**(4) Performance Regarding Administrative Functions Necessary to Carry Out Duties**

**Findings**

108. In 2007, BED revised its energy efficiency tracking system. The revised system is more responsive to the savings verification process. Exh. BED-3 at 18.

109. BED's systems enable it to accurately track energy efficiency program activity by sector and to monitor current savings-to-goal status so adjustments to programs can be made as needed. The system also tracks program budgets to ensure that budget caps are not exceeded. Exh. BED-3 at 17.

110. BED has the necessary system in place to track FCM progress and to meet all ISO-NE FCM report deadlines necessary for continued participation. Exh. BED-3 at 18.

111. BED has the necessary systems in place to accurately track and report on all EEU expenditures. Exh. BED-3 at 17.

112. BED responds to all requests from the EEU Fiscal Agent and EEU Contract Administrator, as well as provides monthly, quarterly, and annual reports. BED meets monthly with the EEU Contract Administrator to review BED's monthly invoice and discuss any outstanding administrative issues. Exh. BED-3 at 17.

**Discussion**

The DPS asserts that the quality of BED's data systems, like VEIC's, is very high. As the DPS notes, more than one contractor hired by the DPS to conduct market assessments and other evaluation activities has favorably commented on the fact that detailed quality data outputs are easily available from Vermont EEU systems. In addition, according to the DPS, the difficulty in acquiring data in other jurisdictions to compare with the detailed information from Vermont's EEUs was often a limitation of the DPS's Benchmarking Study (exh. DPS-3). Furthermore, the DPS has recommended to the Northeast Energy Efficiency Partnership that Vermont's reporting

(and data systems behind that reporting) serve as an example of the kind of information that should be provided throughout the region to ensure transparency and accountability.<sup>90</sup>

According to the DPS, BED has the capability to track and report EEU expenditures and savings, respond to data requests, manage contracts, and manage IT systems. In addition, the DPS notes that BED has participated in Technical Advisory Group meetings and has improved the documentation of savings assumptions and other administrative systems concurrently with Efficiency Vermont. The DPS contends that BED's experience with savings verification and other administrative functions over the past 10 years has positioned it well for future service.<sup>91</sup>

I recommend that the Board conclude that BED's performance regarding administrative functions necessary to carry out an EEU's duties does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

#### **(5) Administrative Efficiency**

##### **Findings**

113. As a regulated electric utility, BED has an obligation to ratepayers to reduce administrative costs whenever possible. Exh. BED-3 at 18.

114. BED's administrative costs have declined significantly since the late 1990s due to staff reductions (down from 164 employees in 1996 to 125 today) and greater efficiencies. Exh. BED-3 at 18 and page 9 of Attachment B.

115. Adjusted for inflation, BED's administrative cost per customer has declined 22 percent since 2000. Exh. BED-3 at 18 and page 9 of Attachment B.

116. Since 2000, BED's administrative costs for EEU services (including general administration, implementation, planning, marketing and IT development) have averaged 25 percent of its total EEU costs, with remaining funds available to be used for direct technical assistance to customers and cash incentives. Exh. BED-3 at 18.

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90. DPS Recommendation at 12.

91. DPS Recommendation at 13.

## Discussion

Over the last several years, the issue of how to measure an EEU's administrative efficiency has been discussed in a variety of forums. No clear answer has emerged.

One option for measuring an EEU's administrative efficiency is to compare an EEU's administrative costs with those of other energy efficiency providers. However, it is difficult to compare different organizations' administrative costs because, as the DPS Benchmarking Study found, there are significant differences in how administrative costs are categorized and reported. For this reason, the DPS asserts it is not appropriate to compare administrative costs across jurisdictions.<sup>92</sup> I concur with this assessment, and do not attempt to make such a comparison in this Proposal for Decision.

Despite reservations associated with comparing administrative costs between entities within Vermont, the DPS notes that, for the purpose of determining whether it is more efficient for one entity to provide all energy efficiency services in the state, it is relevant to consider how BED's administrative costs compare to VEIC's.<sup>93</sup> The 2002 GDS Associates assessment of BED's implementation of EEU services made such a comparison, and concluded that BED was providing EEU services with essentially the same proportion of administrative costs.<sup>94</sup> Looked at today, the DPS asserts that BED's administrative costs appear to be consistent with, if not slightly lower than VEIC's administrative costs. Overall, the DPS contends that, given the direction the state has provided to BED, its administrative efficiency appears to be reasonable.<sup>95</sup>

BED has also presented evidence in this proceeding regarding its overall administrative costs (from a company-wide perspective). Over the last 10 years, its company-wide administrative cost per customer has declined 22 percent, due in part to staff reductions and greater operating efficiencies.

After considering both BED's performance trends with respect to company-wide administrative costs as well as a comparison of its administrative costs to VEIC's, I recommend that the Board conclude that BED's performance with respect to administrative efficiency does

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92. DPS Recommendation at 13.

93. DPS Recommendation at 14.

94. *See*, finding 85, above.

95. DPS Recommendation at 14.

not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

### **(6) Customer Service**

#### **Findings**

117. In 2005 and 2008, customer satisfaction surveys conducted for BED indicated that respondents were more satisfied with BED than with other service providers (the surveys used a 10-point scale where 1 is "not at all satisfied" and 10 is "completely satisfied"):

	2008 Mean	2005 Mean
BED overall	8.66	8.71
Telephone company	7.11	6.69
Heating company (gas, oil, etc.)	7.92	7.66
Cable company	6.56	5.11

Exh. BED-3 at 19.

118. BED's small service territory allows its energy-services staff to take a more hands-on approach with customers, get very familiar with many buildings, and build relationships with facility staff. Exh. BED-3 at 20.

119. BED's energy-services staff is closely aligned with BED's customer-service representatives and the energy-services area is purposely located behind the customer service representatives' area to promote frequent contact and information exchanges about specific customer needs. Exh. BED-3 at 20.

120. BED's energy-services project managers are completely versed in utility metering issues, billing and rates, and assist customers regularly with any concerns. These interactions typically happen at the customer's site and often turn into energy efficiency opportunities. Exh. BED-3 at 20.

121. BED's customers also include contractors, the design community and other trade allies. BED has regular contact with contractors and the design community on energy code and specific Burlington projects. In addition, BED's annual coordination agreement with Efficiency Vermont

includes terms regarding the provision of outreach and training opportunities and keeping trade allies well-informed of program offerings and changes. Exh. BED-3 at 20.

### Discussion

The results of BED's customer satisfaction surveys show that it performs well in comparison to the providers of other services. However, they also indicate areas where improvements can be made. For example, the DPS notes that the commercial survey results show that a number of customers were not aware of BED's energy efficiency services. This indicates that BED's customer-service personnel could do a better job communicating regarding the customer's energy efficiency options.<sup>96</sup>

BED asserts that it is constantly making efforts to improve efficiency and productivity.<sup>97</sup> It has deliberately promoted frequent contact between energy-service staff and customer-service representatives to better meet customers' needs. In addition, BED uses interactions with customers about other utility matters to identify energy efficiency opportunities. BED also works with contractors, the design community and other trade allies to promote EEU services in Burlington.

In sum, while BED's customer satisfaction surveys indicate that, as with all organizations, there are areas where service can be improved, BED does perform well in comparison to other organizations. I recommend that the Board conclude that BED's performance with respect to customer service does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

## **(7) Organizational Qualifications of Incumbent**

### Findings

122. BED's energy efficiency staff technical qualifications include: 4 Certified Energy Managers; 1 LEED-accredited professional; and 1 Vermont licensed master electrician. Exh. BED-3 at 21.

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96. DPS Recommendation at 15.

97. Exh. BED-3 at 19.

123. Four of BED's energy efficiency staff are also members of the American Society of Heating and Refrigeration Engineers (ASHRAE) and members of the Association of Facility Engineers. BED's staff regularly participate in both organizations. Exh. BED-3 at 21.

124. Hallam-ICV Engineering is presently providing technical and project assistance while one of BED's commercial project managers is on military leave. Exh. BED-3 at 21.

125. BED's Manager of Customer & Energy Services and Director of Energy Services collectively have 55 years of experience in the field of energy efficiency programs, and both have been in program management and supervisory positions for BED since the late 1980s. Exh. BED-3 at 21.

126. BED's energy efficiency staff are required to keep current on emerging technologies and best industry practices, and attend training opportunities on a monthly basis. Exh. BED-3 at 21.

127. BED has developed a strong working knowledge of the Burlington market through years of program delivery work and BED's long-established load research and forecasting expertise. Exh. BED-3 at 21.

128. As a department of the City of Burlington, BED plays an integral role in the development of any new construction and major rehabilitation activity in Burlington. BED's regulatory role provides it with direct access to project details and key decisionmakers, which in turn allows it to work directly with project architects and engineers, and to offer them technical assistance and cash incentives to exceed baseline energy efficiency levels required by Burlington's residential and commercial building energy codes at the very earliest stages of project development. Exh. BED-3 at 6.

129. Since the inception of the EEU in 2000, BED has shared planning and program and design work with Efficiency Vermont. Exh. BED-3 at 21.

130. BED also performs substantial analysis of energy efficiency and demand response impacts on its system as part of its Integrated Resource Planning and reporting process. BED updates all of its energy efficiency and demand response planning assumptions on a three-year basis, and reacts with appropriate program design modifications to changing market conditions. Exh. BED-3 at 21-22.

131. While the responsibility for maintaining the brand "Efficiency Vermont" as a product of the State of Vermont lies primarily with VEIC, BED consistently promotes the goals and policies of the statewide EEU. Exh. BED-3 at 23.

132. There have been three co-generation-based CHP installations in BED's service territory within the past 15 years, and BED assisted all three customers with economic analysis and interconnection issues. All three customers also have been strong participants in BED's energy efficiency programs. BED recently provided input to another customer who was researching the installation of a CHP unit; the customer ultimately decided not to pursue the project. Exh. BED-3 at 23.

133. Beginning in 1985, BED promoted its Power Miser program which allowed BED to control the majority of the electric water heaters in Burlington; at its peak, the program served approximately 3,000 customers. Exh. BED-3 at 24.

134. BED contracts with a demand-services provider to enroll key customers in ISO-NE's demand response program and an expanded program that includes BED-specific peak hours where peak load reduction outside of the typical ISO-NE hours would have additional economic benefits to BED. Through these efforts, 17 of BED's largest accounts have enrolled in the ISO-NE program, with approximately 5.2 MW of summer peak load capability, and 10 accounts have enrolled in BED's expanded program, with close to 2 MW of critical peak load reduction capability under contract. Exh. BED-3 at 24.

135. BED currently works with Efficiency Vermont regarding electrotechnologies, especially with respect to ground-source heat pumps, air-source-heat-pump domestic-hot-water tanks, and LED technology. Exh. BED-3 at 24-25.

136. BED also has a separate history with electrotechnologies. For example:

- In 2004, BED installed new domestic-hot-water air-source-heat-pump technology at its own facility to see if it could be a cost-effective alternative for customers who did not have access to natural gas.
- In 1995, BED worked with the Department of Public Works to install LED bulbs in the high-use traffic signals around Burlington.
- Three of BED's energy efficiency services project managers have been trained in solar site assessments and economic analysis, which has allowed BED to

assist customers who are considering solar or small-scale wind installations in the initial phases of inquiry.

- Since the early 1990s, BED has participated in research and development of alternative-fueled vehicles through membership on the Board of E-Vermont, the former statewide alternative-vehicle support group, and has integrated them into BED's fleets where feasible.
- BED was actively engaged in the process of securing federal stimulus funding to assist in converting almost the entire Vermont electric distribution system to the next generation of electronics-based electric infrastructure. BED remains active in the statewide smart-grid implementation effort.

Exh. BED-3 at 25-26.

### Discussion

BED has demonstrated its organizational qualifications to serve as an EEU. It has an in-depth understanding of the energy efficiency market in Burlington which, as the DPS notes, presents different challenges than are present in the rest of the state, due in part to different code ordinances and the characterization of housing units. The DPS states that BED's organizational commitment to energy efficiency is excellent, as demonstrated by its performance in EEU-funded programs and non-EEU efficiency programs that BED has continued to offer after the EEU's creation.<sup>98</sup>

BED has shared planning and program design work with Efficiency Vermont since the EEU's inception in 2000, in addition to performing substantial analysis of energy efficiency and demand response impacts as part of its integrated resource planning process. BED has long had forecasting and load-research capabilities. It completed its own forecast of efficiency savings that was incorporated into VEIC's statewide Forecast 20.<sup>99</sup> BED has experience assisting customers with CHP projects, demand response, and a variety of electrotechnologies. The DPS asserts that any appointed EEU should have the expertise to provide assistance for a wide variety of measures, so that it can recommend the best option both in terms of the customer and in terms of the ratepayer investment in efficiency. BED has demonstrated that it has this expertise.

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98. DPS Recommendation at 16-17.

99. See, findings 99-103, above.

Therefore, I recommend that the Board conclude that BED's organizational qualifications do not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

### **(8) Financial Stewardship of Ratepayer Dollars**

#### **Findings**

137. As a regulated utility, BED is required to have independent annual financial audits to ensure that it is following proper accounting procedures in all aspects of utility operations, including energy efficiency expenditures. Over the years that BED has been providing energy efficiency services, a few audits have included minor audit findings while others have included no findings. Exh. BED-3 at 26.

138. BED's annual coordination agreements with Efficiency Vermont, Vermont Gas, and Champlain Valley Weatherization Service reflect BED's effort to reduce administrative and program delivery costs for all parties. Exh. BED-3 at 26.

139. In the 2006-2008 performance cycle, BED spent \$3.7 million in ratepayer funds, while leveraging \$3.2 million in participant investment, for a total ratio of 0.86.<sup>100</sup> This leveraging represents an increase in participant contributions from the previous two performance cycles. BED 2008 Energy Efficiency Annual Report at 7.

140. One of the reasons BED was able to leverage ratepayer funds in this manner is that it has presented many customers with detailed cash-flow analyses customized to their projects and situations. Exh. BED-3 at 27.

141. Throughout the 1990s, BED worked with a number of local commercial banks to provide underwriting and energy efficiency loan processing services for customers, which loans BED guaranteed and then secured with liens placed on the customer's property. BED tailored its

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100. The amount of ratepayer funds spent in a performance cycle is the sum of the amounts shown on page 7 of BED's 2008 Energy Efficiency Annual Report in the columns labeled "Admin," "Services" and "Evaluation" for each year of the performance cycle. The amount of participant investment in the 2006-2008 performance cycle is the sum of the amounts shown on the same page for the column labeled "Participant" for each year of the performance cycle. To calculate the leverage ratio, divide the participant investment by the ratepayer funds.

incentive dollars to create monthly positive cash-flow for participants, which allowed for higher levels of customer participation. Exh. BED-3 at 27.

142. BED customers now have access to loans through Burlington's Community and Economic Development Office, the Vermont Economic Development Authority, and Efficiency Vermont's arrangement with TD Bank. Exh. BED-3 at 28.

### Discussion

Financial stewardship of ratepayer dollars can refer to ensuring that proper accounting procedures are followed so that no organizational cross-subsidization or other misallocation of resources occurs. BED's annual audits during the period it has been providing energy efficiency services have never included any major audit findings. The DPS is convinced that EEC funds have been well managed in this regard.<sup>101</sup>

Financial stewardship of ratepayer dollars can also refer to the extent to which an EEU minimizes ratepayer costs, thereby ensuring that ratepayers are collectively receiving the best return for their investment. BED has worked with Efficiency Vermont, Vermont Gas, and Champlain Valley Weatherization Service to reduce administrative and program delivery costs for all parties.

Based on the positive audit results, the increasing amount of private investment leveraged by BED, and its continued efforts to encourage financing and other options for energy efficiency investment, the DPS states that BED has been a sound financial steward of ratepayer money.<sup>102</sup>

It is also worth noting that in the 2006-2008 performance period, BED and VEIC achieved similar amounts of leveraging (0.86 for BED and 0.92 for VEIC).<sup>103</sup> Considering all these factors, I recommend that the Board conclude that BED's performance with respect to financial stewardship of ratepayer dollars does not indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

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101. DPS Recommendation at 19.

102. DPS Recommendation at 19.

103. See, findings 56 and 139, above.

### **(9) Performance in Relation to Other Energy Efficiency Providers**

#### **Findings**

143. Findings 60-68, above (which address the methodology used in the Benchmarking Report and some of its results), are incorporated herein.

144. Annual fluctuations in any energy efficiency program's performance depend on a variety of human and business cycle dimensions that are hard to quantify and even harder to predict with precision. Year-to-year fluctuations in program results reflect the relative unpredictability of energy efficiency program timing. Exh. BED-4 at 2.

145. BED's C&I energy savings are very close to the medians for the level three publicly owned utilities and the investor-owned utilities and agencies reviewed.<sup>104</sup> BED's levelized cost of C&I energy savings is higher than the median for level three publicly-owned utilities, but slightly less than the level three investor-owned utilities. Exh. DPS-3 at 13.

146. BED's energy savings results are more appropriately compared to a highly regulated investor-owned utility than a publicly-owned utility because of the differing levels of rigor in the measurement and verification process between these groups. The level of rigor for publicly-owned utilities in general is low, in part because they are newer to energy efficiency activity as a group, and in part because they are state-regulated in only a very few cases. Many publicly-owned utilities report savings results to local legislative bodies directly from their program measure-savings analyses and energy audits, which vary widely in the level of actual savings data considered, if any, and tend to be engineering estimates. BED, by comparison, is subject to a very rigorous measurement and verification process, recently vetted and fortified by its participation in the FCM. This comparison would have the effect of raising the cost of energy saved for Vermont's EEUs, at least in comparison to many publicly-owned utilities. Exh. BED-4 at 5.

147. The Benchmarking Report showed that while BED's cost of saved energy for the entire residential sector was less than the residential medians for the organizations benchmarked for all levels of the analysis, it also showed that BED's cost of saved energy for its residential new

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104. See, findings 63-65, above, for an explanation of which organizations are included in each level of review.

construction program in 2008 was significantly higher than all other organizations reviewed. Exh. DPS-3 at 13, 92.

148. BED's 2008 results for its Residential New Construction program were anomalous. Activity in this program (including major rehabilitation) was down in 2008, so there were a smaller number of projects over which to allocate fixed program costs. The average cost per kWh saved of BED's Residential New Construction program was significantly lower in 2005, 2006, 2007, and 2009 than it was in 2008. Exh. BED-4 at 1-4.

149. The Benchmarking Report showed that the cost of BED's C&I New Construction program in 2008 was the second highest of all level three organizations reviewed. Exh. DPS-3 at 95.

150. BED's 2008 results for its C&I New Construction program were anomalous due to increasing baselines within the Commercial Building Energy Standards, increased incentives in an attempt to capture deeper savings and as a reaction to the challenging economy, and the expenditure of audit and engineering time on projects that were not completed in 2008 or did not participate as robustly as anticipated. The average cost per kWh saved of BED's C&I New Construction program was significantly lower in 2005, 2006, 2007, and 2009 than it was in 2008. Exh. BED-4 at 1-5.

151. Residential electrical consumption in Vermont and in Burlington has been decreasing as New England's and the rest of the country's consumption has been increasing. Exh. BED-3 at 29-30.

152. Recent data indicates that BED's residential consumption is 27 percent less than the average Vermont residential customer, 35 percent less than the average New England residential customer, and 53 percent less than the national average. Some of the difference in usage between Burlington and Vermont reflects the number of small rental units in Burlington. Exh. BED-3 at 29 and Appendix B at 3.

153. Findings 71-75, above (which address various ACEEE reports comparing energy efficiency policies and programs in different states), are incorporated herein.

### Discussion

The Benchmarking Report is the first time that Vermont has compared BED's (and VEIC's) performance to that of other energy efficiency providers. The Benchmarking Report itself recognizes that it is difficult to make such comparisons, given the variation in organizations' evaluation and reporting practices. Nevertheless, as noted by the DPS, the Benchmarking Report "is a useful product to gauge the relative standing of efficiency programs across the country."<sup>105</sup>

BED's achieved energy savings were higher than almost all of the other organizations included in the benchmarking analysis, and as is to be expected of organizations that achieve high savings levels, its cost of savings was somewhat higher than the median. According to the DPS, the Benchmarking Report "shows that the relative performance of both VEIC (operating as [Efficiency Vermont]) and BED was excellent compared to their peers in 2008."<sup>106</sup>

While the Benchmarking Report also shows that the 2008 cost of savings for BED's Residential New Construction and C&I New Construction programs were high compared to other organizations' costs, the evidence in this proceeding demonstrates that 2008 was an anomalous year for both these programs,<sup>107</sup> and that both programs' cost of savings were significantly lower in 2005, 2006, 2007 and 2009.

The Benchmarking Report also shows that VEIC was able to achieve greater energy savings as a percent of sales at close to the same cost as BED.<sup>108</sup> On its face, this might suggest cause to have the statewide efficiency provider deliver services in BED's service territory. However, the DPS states that these results are likely driven by a number of factors that argue for continued delivery of services by BED.<sup>109</sup>

The first factor identified by the DPS is the anomalous nature of 2008 (as discussed above) which increased BED's costs. The second factor identified by the DPS is that Burlington has unique characteristics within Vermont due in part to the large number of BED's residential

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105. DPS Recommendation at 20.

106. DPS Recommendation at 20.

107. *See*, findings 148 and 150, above.

108. Exh. DPS-3 at 6.

109. DPS Recommendation at 21.

customers that live in rental housing and who pay their own electric bill.<sup>110</sup> The landlord/tenant relationship has long been a difficult barrier for energy efficiency programs nationwide, as tenants who pay the electric bills have little incentive to make investments in property they do not own. The DPS notes that BED has supported progressive solutions on this issue, such as the City of Burlington's Minimum Rental Housing Energy Efficiency Standards Ordinance.<sup>111</sup>

The third factor identified by the DPS that argues for continued delivery of efficiency services by BED is that BED ratepayers had supported energy efficiency at a level above services provided in the rest of the state before the creation of Efficiency Vermont. Burlington had energy codes in place before state codes, and BED helps the City of Burlington enforce those codes,<sup>112</sup> which, in turn, helps BED persuade customers to participate in energy efficiency programs. These long-standing efforts have served to raise the baseline efficiency in BED's service territory, thereby lowering the available energy savings. As the DPS notes, despite what is likely a smaller potential for efficiency savings, BED has still achieved savings far above that of other comparable municipalities and on par with Efficiency Vermont and other leading efficiency-implementation entities.<sup>113</sup>

Other recent reports that compare energy efficiency policies and programs in different states have found that Vermont has achieved a high level of savings (expressed as a percent of electricity sales) at a median cost of savings. While some of these reports examine states as a whole, and not specific utilities, BED's performance is on par with Vermont as a whole.<sup>114</sup>

After considering the Benchmarking Report, other recent reports that compare energy efficiency policies and programs in different states, and the factors identified by the DPS that argue for BED's continued delivery of energy efficiency services in its service territory, I recommend that the Board conclude that BED's performance in relation to its peers does not

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110. Approximately 60 percent of BED's residential customers live in rental housing and about 85 percent of residential customers in rental housing pay their space heating and electric bills. Exh. BED-3 at 6.

111. Exh. BED-3 at 6.

112. Exh. BED-3 at 6.

113. DPS Recommendation at 22.

114. Exh. BED-3 at 28.

indicate there is cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory.

### **(10) Overall Determination**

#### **Findings**

154. There is no cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory. Findings 77-153, above.

#### **Discussion**

During the 10 years that it has provided EEU services in its service territory, BED has achieved significant energy and capacity savings and Total Resource Benefits. BED has also performed well with respect to broad policy goals, specific policy initiatives, administrative functions necessary to carry out its duties as an EEU, administrative efficiency, customer service, and financial stewardship of ratepayer dollars. BED clearly possesses the organizational qualifications to serve as an EEU. In addition, while precise comparisons among energy efficiency programs is challenging, and 2008 was an anomalous year for two of BED's energy efficiency programs, the Benchmarking Report indicates that BED's 2008 performance was excellent compared to its peers (and Efficiency Vermont, when the unique factors related to delivery of energy efficiency services in BED's service territory that the DPS identified are taken into consideration). In other words, none of the individual criteria indicate that there is cause for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory. Because of this, I determine that, as with my consideration of VEIC's performance, there is no need to consider how to weight the individual evaluation criteria.

When the Board first authorized BED to provide EEU services in its service territory, the Board concluded that the anticipated benefits of BED doing so outweighed the risks or potential inefficiencies of such delivery.<sup>115</sup> In essence, the Board's decision allowed BED to continue to be the primary provider of energy efficiency services in its service territory. This is essentially

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115. Docket 5980, Order of 9/22/00 at 16.

the same decision that is facing the Board today, and the DPS asserts that the same threshold should still apply.<sup>116</sup>

The DPS asserts that BED's long history of delivering efficiency services in its territory and developing in-house expertise and strong relationships with its partners and customers, combined with BED's position as an active municipal utility<sup>117</sup> and its achievements in its unique service territory demonstrate that BED has the ability to continue to deliver efficiency services in its service territory at great value to its ratepayers. The DPS contends that the potential risks of administrative efficiency are outweighed by the benefits of BED's continued service as an EEU. Therefore, the DPS recommends that BED be appointed the provider of energy efficiency services in its service territory.<sup>118</sup>

GMP contends that no evidence has been presented in this proceeding that would suggest that anyone other than BED should deliver energy efficiency services in BED's service territory. Therefore, GMP recommends that BED be awarded the initial Order of Appointment.<sup>119</sup>

CVPS asserts that the information presented in this proceeding regarding BED's performance as an EEU does not present "clear and convincing evidence of systemic performance deficiencies or failures, or other compelling reasons" that would constitute good cause to terminate BED's appointment as an EEU.<sup>120</sup> Therefore, CVPS recommends that the Board find that good cause does not exist to replace BED as an EEU provider.<sup>121</sup>

BED states that it has a "long and proud history" of aggressively providing comprehensive cost-effective energy efficiency services within its service territory.<sup>122</sup> BED notes that since 2000, BED has worked cooperatively with Efficiency Vermont in delivering successful statewide energy efficiency programs. It contends that having a fully integrated electric utility serving as an EEU has provided benefit to Vermont as a whole, most notably in

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116. DPS Recommendation at 22.

117. As discussed above in Section VIIB3, BED's status as a regulated utility has assisted with the development of Vermont's process for energy efficiency's participation in the FCM, and the development of Forecast 20.

118. DPS Recommendation at 1 and 22.

119. GMP Recommendation at 1.

120. CVPS Recommendation at 1-2.

121. CVPS Recommendation at 1-2.

122. BED Recommendation at 27.

Vermont's participation in the FCM and the development of efficiency forecasting, and will likely continue to provide benefit in the future as new opportunities emerge. Therefore, BED asserts that, based on the record in this proceeding, the Board should find that no cause exists for removing BED from its role as the EEU within its service territory.<sup>123</sup>

I have considered the evidence presented in this proceeding regarding BED's performance, as well as the parties' recommendations, including the DPS's recommendation that the Board consider whether the anticipated benefits of BED continuing to provide EEU services in its service territory outweigh the risks or potential inefficiencies of such delivery. All parties who have filed comments recommend that the Board conclude that there is no cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory. While this Initial OPA has revealed some areas in which BED's performance could be improved, this is to be expected in any comprehensive performance evaluation. Overall, I am persuaded that the evidence supports the conclusion advocated by the parties, and that the anticipated benefits of BED continuing to provide EEU services in its service territory outweigh the risks or potential inefficiencies of such delivery.<sup>124</sup>

Therefore, I recommend that the Board determine that there is no cause at the present time for the statewide provider of energy efficiency services to also deliver all EEU services in BED's service territory. In addition, I recommend that the Board affirmatively state that it will grant an Order of Appointment to BED, and remand this Docket to me for further proceedings regarding the specific terms of such an Order of Appointment.

### **VIII. STANDARDS OF CONDUCT**

CVPS recommends that the Board condition VEIC's appointment as the statewide EEU on a requirement that it "develop and implement appropriate standards of conduct for the shared use of assets and personnel, inter-affiliate and intra-company information transfers, and affiliate transaction and intra-company cost allocation procedures so that the delivery of EEU services is

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123. BED Recommendation at 2-3, 27-28.

124. Since there does not appear to be cause for the statewide provider to also deliver EEU services in BED's service territory, I do not need to expressly consider the risks associated with transitioning to a new provider.

functionally separated from the provision of services to other VEIC customers or in competitive markets (not as a component of regulated utility service)."<sup>125</sup> CVPS asserts that such "safeguards would promote transparency and accountability, and assure that the provision of EEU services was not leveraged into unregulated markets to the detriment of consumers or the competitiveness of the affected marketplace."<sup>126</sup> CVPS states that it does not appear that a similar requirement would be necessary in connection with the delivery of EEU services by a vertically integrated incumbent utility (like BED) to its customers.<sup>127</sup>

The DPS is the only party that filed comments addressing CVPS's recommendation. The DPS supports the development of standards of conduct, as proposed by CVPS. However, the DPS asserts that any entity appointed as an EEU is likely to have business operations outside of the scope of an Order of Appointment, including a regulated utility like BED which must allocate costs between its energy efficiency service and electric utility service delivery responsibilities. Therefore, the DPS recommends that standards of conduct should be required as part of any Order of Appointment. The DPS also recommends that this requirement be added to the "Comprehensive Structure" document that parties are developing in a parallel phase of this Docket.

I conclude that it is appropriate to address the issue of a requirement regarding standards of conduct in the Phase 2 Issue Resolution phase of this Docket, including whether such a requirement should apply to BED as well as VEIC, and recommend that the Board direct that I do so.

## **IX. CONCLUSION**

In this Proposal for Decision, I recommend that the Board conclude that: (1) the Initial OPA for VEIC indicates that there is no cause to solicit proposals from alternative energy efficiency providers at the present time; and (2) the Initial OPA for BED indicates that there is no cause at the present time for the statewide provider of energy efficiency services to also deliver

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125. CVPS Recommendation at 2.

126. CVPS Recommendation at 2.

127. CVPS Recommendation at 2.

all EEU services in BED's service territory. I further recommend that the Board determine that it will issue Orders of Appointment for both VEIC and BED. Finally, I recommend that the Board direct me to continue the development of those Orders of Appointment through additional proceedings in this Docket.

To the extent that the findings I have made are inconsistent with any proposed findings, such proposed findings are denied.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 13th day of August, 2010.

s/ Ann Bishop  
Ann Bishop  
Hearing Officer

## **X. BOARD DISCUSSION**

The change in the EEU structure from a contract-based model to an Order of Appointment model is a significant one. In our November 24 Order, when we determined that such a change would provide additional benefit to Vermont ratepayers, we also concluded that the two current energy efficiency providers (VEIC and BED) should be subject to Initial Overall Performance Assessments. The goal of the Initial OPAs was to ensure that Vermonters receive the maximum value possible from this ratepayer-funded program. To accomplish this, we directed the Hearing Officer to conduct the Initial OPAs through an open and public process, and to review the current providers' effectiveness, including how the current providers compare to other entities delivering energy efficiency services in other states. We subsequently identified nine criteria on which VEIC's and BED's performance as EEUs would be evaluated.<sup>128</sup>

In accordance with our instructions, the Hearing Officer conducted thorough and comprehensive performance reviews of both BED and VEIC. Her Proposal for Decision describes in detail the results of these reviews.

No party filed comments on the Hearing Officer's Proposal for Decision.

We adopt the Hearing Officer's recommendations and hereby determine that we will issue Orders of Appointment to both VEIC and BED.

Even though we conclude that the Initial OPA for VEIC indicates that there is no cause to solicit proposals from alternative energy efficiency providers at the present time, we note that the Initial OPA did reveal some areas of concern, including: (1) VEIC's inclusion of a "Non-Compete" clause in its subcontracts; (2) cost overruns and delays in the completion of Forecast 20; and (3) VEIC's initial sporadic attendance at VSPC meetings.<sup>129</sup> We view all three of these as serious issues. While VEIC appears to have taken, or to be taking, corrective action to address these issues, we emphasize that we intend to monitor these issues closely in the future.

Furthermore, we expect both VEIC and BED to continue to perform well after receiving their Orders of Appointment. Under the terms of our November 24, 2009, Order, formal

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128. See, Order of 3/9/10 at 11 (Order Paragraph 5).

129. See, pages 19, 22 and 30 of the Proposal for Decision.

performance reviews of EEUs will occur at least every six years.<sup>130</sup> This will provide us with a regular opportunity to evaluate whether cause exists to consider alternative energy efficiency providers. In addition, we remind VEIC and BED that any serious performance lapses could be grounds for reconsidering their appointments in between the regularly scheduled performance reviews.

Today's Order is a significant step in the transition to the new EEU structure. The next step will be the issuance of actual Orders of Appointment. We direct the Hearing Officer to continue the development of these Orders of Appointment through additional proceedings in this Docket.

#### **XI. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.
2. At the present time, there is no cause to solicit proposals from alternative energy efficiency providers to serve as the statewide Energy Efficiency Utility ("EEU").
3. The Board will grant an Order of Appointment to Vermont Energy Investment Corporation ("VEIC") to serve as the statewide EEU, known as Efficiency Vermont.
4. At the present time, there is no cause for the statewide provider of energy efficiency services to also deliver all EEU services in the City of Burlington Electric Department's ("BED") service territory.
5. The Board will grant an Order of Appointment to BED to serve as the EEU in its service territory.
6. The design of an appropriate performance indicator to measure administrative efficiency will be addressed in the upcoming Demand Resources Plan proceeding that will take place outside of this Docket.
7. This Docket is remanded to the Hearing Officer for further proceedings related to the development of recommended Orders of Appointment and a comprehensive document describing

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130. Order of November 24, 2009 at 38 (finding 52).

the overall structure of the EEU program. In those further proceedings, the Hearing Officer shall address, among other items, the issue of including a requirement regarding standards of conduct in EEU Orders of Appointment.

Dated at Montpelier, Vermont, this 20th day of August, 2010.

<u>s/ James Volz</u>	)	
	)	
	)	PUBLIC SERVICE
<u>s/ David C. Coen</u>	)	
	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: August 20, 2010

ATTEST: s/ Susan M. Hudson

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*